

**CONTINUATION OF AUGUST 7, 2001 MEETING OF THE
BOARD OF MAYOR AND ALDERMEN**

August 14, 2001

7:00 PM

Mayor Baines called the meeting back to order.

The Clerk called the roll.

Present: Aldermen Wihby, Gatsas, Levasseur, Sysyn, Pinard, O'Neil, Shea,
Lopez, Vaillancourt, Pariseau, Cashin, Thibault and Hirschmann

Absent: Alderman Clancy

Mayor Baines advised that Items #3 & 4 were addressed on August 7 and the meeting will proceed on to Item #5.

CONSENT AGENDA

Mayor Baines advises if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Minutes Accepted

- A. Copies of minutes of BMA meetings held on January 2 & 23, 2001 (two meetings each); February 6 & 20, 2001 (two meetings each); March 7, 14, 19, 20 (two meetings) and 29, 2001; April 3, 16, 17 (two meetings each) and 23, 2001; May 1 & 15 (two meetings each); and June 4, 5 & 11 (two meetings each).

Informational - to be Received and Filed

- C. Copies of Airport Authority minutes of a meeting held on April 26, 2001.
- D. Copies of minutes of the Mayor's Utility Coordinating Committee meeting held on July 18, 2001.
- E. Communication from the Manchester Transit Authority advising that due to FTA regulations they will no longer be allowed to provide charter service to the City and suggest contacting Spartans Coach Lines for any future service.
- F. Copy of a communication from Marcia Rusch, Hillsborough County Delegation Coordinator, submitting copies of the FY2002 Hillsborough County Budget and copies of the minutes of the Delegation meeting held June 21/26, 2001.
- G. Copy of a communication from the NHDOT advising of contemplated awards.
- H. Communication from AT&T Broadband submitting their franchise fee payment (\$294,864.09) for the period April 1-June 30, 2001.

REFERRALS TO COMMITTEE

COMMITTEE ON BILLS ON SECOND READING

J. Ordinance Amendment:

"Amending An Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester, relating to establishing parking permits and increasing fees."

COMMITTEE ON FINANCE

- L.** Communication from Brenda Lett requesting \$500.00 from Civic Contributions to be used toward expenses of the Caribbean Celebration 2001 scheduled for Saturday, August 25th, from 10 AM to 6 PM at Veteran's Memorial Park.

REPORTS OF COMMITTEES

COMMITTEE ON JOINT SCHOOL BUILDINGS

- M.** Advising that it has voted to accept the completion of the High School Stages and CHS/WHs Electrical Improvements Projects.
- N.** Advising that it has approved the following change order:
Asbestos Abatement - Green Acres School
Ceiling Tile Design \$116,239.00
- O.** Advising that is has accepted the enclosed project financials, status, architect's, engineer's, contractor's and consultant's reports for the month of July 2001 relative to Henry J. McLaughlin Jr. Middle School, ADA Accessibility/School Elevators (Parker-Varney Elevator/ADA Improvements), Central and West Heat & Ventilation Improvements Phase V, NORESCO Performance Contract, Roofing Projects (Manchester Schools), Asbestos Abatement (Green Acres School and McDonough/Green Acres Gym), McLaughlin Middle School Addition and Central High H&V Phase 6 and Window Replacement and is submitting same to the Board for informational purposes.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- P.** Recommending that a request to close Crosbie Street, from 209 Crosbie Street to the end of the cul-de-sac on Saturday, August 25, 2001, for a neighborhood block party from noon until 9 PM be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk.
- Q.** Recommending that a request from the Manchester Church of Christ to use the Pine Street parking lot at the Federal Building on Saturday, September 29, 2001, from 7 AM until 5 PM for their annual "Give-Away-Day" be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk.

- R.** Recommending that is has reviewed Ordinance amendment:

"Amending An Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester, by increasing penalties (fines) for parking violations."

and recommends same be referred to the Committee on Bills on Second Reading for technical review, and to the Committee on Accounts, Enrollment and Revenue Administration for a recommendation on whether a public hearing should be held.

- S.** Recommending that a parking permit fee of \$36/month (Monday-Friday, 8AM - 5:30 PM) be approved for the Rubenstein Lot and that same be referred to the Committee on Bills on Second Reading for ordinance preparation and technical review.
- T.** Recommending that regulations governing standing, stopping, and parking and operation of vehicles be adopted and put into effect when duly advertised and the districts affected thereby duly posted as required by the provisions of Chapter 335 of the Sessions Laws of 1951 and the Ordinances of the City of Manchester.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O'NEIL, DULY SECONDED BY ALDERMAN SYSYN, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

- B.** Copy of a communication from Alderman Vaillancourt to *The Union Leader* regarding the Chamber of Commerce's search to develop a new slogan for the City.

Alderman Vaillancourt stated several people have discussed this with me. I thought for awhile that I was the only person that thought the name "Queen City" was good enough for Manchester when I wrote this letter but several people have come up to me and said they kind of like "Queen City" especially as opposed to some of the new names that have been proposed. I was especially intrigued by "MANchester, Bosom of the State." I guess it fits in with the spirit...it was in the paper. I would move that the Board of Mayor and Aldermen go on record as supporting Manchester keeping the name "Queen City."

Alderman Thibault duly seconded the motion. Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

- I.** Communication from Alderman Shea requesting that the Zoning Ordinance Section 151.41 which allows RV's or campers to be parked (running) on property within the City for up to 60 days be changed to 30 days.

Alderman Shea stated this is a communication regarding the zoning ordinance for RV's or campers to be parked running on property within the City and I would like the Committee on Bills on Second Reading to take a serious look at this. What I am suggesting is that it be changed from a 60 day to a 30-day period. I think that people who live next to other residents that put an RV on the lawn and they keep it running all night for air conditioning or for TV or for any other usage are really causing consternation and I believe that in fairness we should be fair about these things.

On motion of Alderman Shea, duly seconded by Alderman Pariseau, it was voted to refer this item to the Committee on Bills on Second Reading.

- K.** Communication from the Deputy Public Works Director requesting that \$38,831.00 received in the Johns Manville Settlement Fund be placed in a special account for the repair and maintenance of the Gossler, Jewett and Smyth Road School roofs.

Alderman Hirschmann stated the Finance Director of the City asked me to pull this item to be referred to the Committee on Accounts. We actually have an appropriation problem.

On motion of Alderman Hirschmann, duly seconded by Alderman Lopez, it was voted to refer this item to the Committee on Accounts, Enrollment & Revenue Administration.

- 6.** Communication from Dr. Rita Brack submitting her resignation as a member of the Board of Registrars.

On motion of Alderman Pariseau, duly seconded by Alderman Sysyn, it was voted to accept this resignation with regret.

Mayor Baines stated I also want to thank Dr. Brack for all of her years of service to our community, not only with the Board of Registrars, but as a long time member of the Board of School Committee.

- 7.** Communication from Karen Rumfelt submitting her resignation as a member of the Personnel Appeals Board.

On motion of Alderman Lopez, duly seconded by Alderman Hirschmann, it was voted to accept this resignation with regret.

- 9.** Confirmation of nominations to the Planning Board as follows:
Kevin McCue to fill expired term of William Trombly, term to expire May 1, 2004; and
Raymond Clement to fill expired term of Kevin McCue (alternate position), term to expire May 1, 2004.

On motion of Alderman Wihby, duly seconded by Alderman Sysyn, it was voted to confirm the nominations of Mr. McCue and Mr. Clement to the Planning Board as submitted.

Mayor Baines presented nominations as follows:

Dorothy Krasner to the Board of Registrars to fill the unexpired term of Rita Back, term to expire May 1, 2003; and
William Larkins to the Zoning Board of Adjustment to fill the unexpired term of Chet Raymond, term to expire March 1, 2004.

Mayor Baines advised that in accordance with the rules, these nominations would lay over to the next meeting.

Mayor Baines advised that Chet Raymond had submitted his resignation to Zoning Board of Adjustment..

On motion of Alderman Lopez, duly seconded by Alderman Pariseau, it was voted to accept the resignation of Mr. Raymond with regret.

Alderman Pariseau asked could we suspend the rules for the other two as opposed to having them lay over.

Mayor Baines answered it is up to the Board.

On motion of Alderman Pariseau, duly seconded by Alderman Thibault, it was voted to suspend the rules to confirm nominations to the Board of Registrars and Zoning Board of Adjustment.

Mayor Baines stated I would like to present Dorothy Krasner and William Larkins for confirmation this evening.

On motion of Alderman Pariseau, duly seconded by Alderman Gatsas, it was voted to confirm the nomination of Dorothy Krasner to the Board of Registrars and to confirm the nomination of William Larkins to the Zoning Board of Adjustment as formerly presented.

- 10.** Confirmation of nominations to the Central Business Service District Advisory Board as follows:
Cliff Ross to fill the expired term of William Norton, term to expire December 1, 2005;
Sal Steven-Hubbard to replace Mark Taylor, term to expire December 1, 2005; and
Tim Bechert to replace of Brooks McQuade, term to expire December 1, 2005.

On motion of Alderman Pariseau, duly seconded by Alderman Sysyn, it was voted to confirm the nominations to the Central Business Service District Advisory Board as presented.

- 11.** Confirmation of the nomination of Peter Capano to succeed himself as a member of the Southern NH Planning Commission, term to expire June 30, 2005.

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted to confirm the nomination of Mr. Capano to the Southern NH Planning Commission, term to expire June 30, 2005.

On motion of Alderman Pariseau, duly seconded by Alderman Pinard, it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented advising that it had approved a request from Brenda Lett for \$500 from civic contributions to be used towards expenses for the Caribbean Celebration 2001 scheduled for Saturday, August 25 from 10 AM until 6 PM at Veteran's Memorial Park.

Alderman Lopez moved to accept, receive and adopt the report. Alderman O'Neil duly seconded the motion.

Alderman Shea stated I wonder if we are not setting a bad precedent by giving \$500 to a particular group when other groups have different functions like the ACA or the St. Patrick's Day Parade and others. I think they are all worthy causes but if we begin to set precedents here then I don't know how and why we should refuse others when they come about. That is really what my concern is. I know that it is probably a very worthy situation here and we want to encourage different groups but if every group before us were to ask for money and we refuse them then obviously we really have to have a sound reason because if we are granting them \$500 out of civic contributions then I see no reason why we can't grant other groups the same privilege and that is why I am voting no.

Alderman Wihby asked when was the last time we told somebody no. I don't remember ever turning anybody down that came in front of us for \$500.

Mayor Baines answered I think we have.

Alderman Hirschmann stated there have been athletes requesting funds that have been turned away. There have been youth leagues turned away. This is a segment of the community that wants to have a celebration of their ethnicity, which is fine, but there are 70 different nationalities living in Manchester and I don't think we can afford to give them all \$500.

Alderman Vaillancourt stated I concur with Alderman Shea. There are many, many afflictions that affect society. I am currently reading an inspirational book by the Tour de France winner, Lance Armstrong, called It's Not About the Bike. If we should start giving money away as a government body we should do it to fight terrible diseases like cancer instead of this kind of thing. I think we just have to say no to everything that does not involve real government.

Mayor Baines stated Brenda Lett is here if the Board would like to listen to her make a presentation.

Ms. Brenda Lett stated I think I understand real clearly what I heard in terms of the nays and they really do sound like really good reasons. It was just my hope that this Board of Mayor and Aldermen would find it within government to allow us the \$500 so that we could have our celebration in the park next Saturday.

Mayor Baines asked this is your first celebration too, right.

Ms. Lett answered it is, Mayor Baines.

Mayor Baines asked could you explain a little bit about the community as it is a growing community in our City.

Ms. Lett answered the primary purpose for the celebration is that for the last maybe 40 years or so there have been people of African decent who have lived here in the Manchester area. Many of those people are from Jamaica and Haiti, as well as the United States. As I am sure everybody has recognized, there is a growing number of African people who now live here in the Manchester area. Our hope was that we would be able to gather and get to know each other and be able to do some positive things in the City of Manchester.

Mayor Baines called for a vote on the motion. The motion carried with Aldermen Vaillancourt, Shea, Hirschmann, Pinard and Gatsas duly recorded in opposition.

Ratify and confirm a telephone poll conducted in regards to holding a public hearing on August 27 relative to two rezoning requests that were received for Hackett Hill Road and the South Willow Street area.

On motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to ratify and confirm the poll.

A report of the Committee on Bills on Second Reading was presented advising that it has authorized the Planning Director to report on whether or not the conditions have been met for all rezoning petitions.

On motion of Alderman Wihby, duly seconded by Alderman Lopez, it was voted to accept, receive and adopt the report.

16. Proposed amendments to the City Charter (relating to the School District) to be placed on the Municipal General Election ballot to be held on November 6, 2001 as follows:

Shall the City of Manchester, New Hampshire approve the Charter amendment summarized below?

"To amend the Charter of the City of Manchester, New Hampshire to provide that the City of Manchester, a municipal corporation, shall constitute a single school district, administered by the Board of School Committee as a department of the City of Manchester and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget."

Mayor Baines stated I don't believe any action is necessary because we already voted to receive so unless we rescinded it, this motion would go forward.

Alderman Wihby stated we had talked about and I don't believe an action is necessary because we have already voted on it but where we left this last time was that if the School Board wanted to work out some details with the City knowing that they wanted to stop the suit and work with us we would rescind this. I guess I am a little concerned, your Honor, because at yesterday's meeting they voted against your proposal and said they didn't want to work with the City. They voted to not even talk about working with the City. Your Honor, in Sunday's newspaper they advertised for a Director of Human Resources at a salary in the mid-range \$60,000's so if you take the benefits along with the salary it is roughly \$100,000 and we could finance...everybody is saying we want to take care of our schools and take care of fixing the buildings and we could put a \$1 million bond out there for the same price that we are hiring a duplication of services with this Human Resources Director. I think it is unfair that we have a new Human Resources Director that could handle the job and we always did it before and if the School Board is saying it is always the Aldermen's fault and they don't want to take care of our buildings and everything else and they are using \$1 million worth of bonding capacity just to hire this position, I think it is crazy that they wouldn't even consider your proposal to talk about it. I would like to send a message, your Honor, that they don't fill this position and they use our person again and let them take that and vote on that again. Something has to stop. We have to work together. We have to save money. We have to fix our buildings and if we just keep on having duplication of services and hiring additional people when we don't need them when we have that capacity in the City, we are not going to fix any buildings in the City. I just think that we get the bad rap over here at the Aldermanic level but it is things like this that are keeping us from fixing the City and fixing the schools.

Alderman Wihby moved to recommend to the School Board that they reconsider their vote and not hire a Human Resource Director. Alderman Cashin duly seconded the motion.

Alderman Shea stated I want to direct my question to the City Solicitor. I am just wondering when is this all going to stop. In other words, can we get some kind of adjudication from the court regarding who is in charge? I mean a vote is fine and I am for that but I don't know how much weight it will carry. I am wondering, are we going to go to court or are we not going to go to court? Is the advisory council that they have going to do anything? What is happening? Somebody has to toss a coin and say heads we win and tails they lose or something. What is going to happen, Tom?

Solicitor Clark replied presently it is scheduled for court. There is a court date of October 4 I believe for the hearing. The Aldermanic Board and the School Board did set-up a committee to meet and there have been several meetings to try and work through the issues. Some progress has been made and some hasn't. There are points where they just completely disagree.

Alderman Shea asked will the court on October 4 finalize this or will it be appealed to a higher court so it will go on.

Solicitor Clark answered in October is when the declaratory judgement is being heard. That doesn't mean there will be a decision then. Any decision that is rendered on that particular petition would then be subject to an appeal to the Supreme Court. Any action that is taken pursuant to the referendum on the Charter amendment could also effect an appeal later. Will we have a definite answer in October? Probably not.

Alderman Lopez stated I don't know if the committee that was appointed by the Mayor would like to add anything, but the Accounts Committee got some indication that some progress has been made. Is this an item that is being discussed in that Committee?

Mayor Baines replied let me just give some background. The Board of Aldermen received a letter that I had sent to the School Board simply asking them to enter into a dialogue with the Aldermen about sharing services related to Human Resources, Finance and City Solicitor legal services. Last night there was considerable discussion and what I found was the same kind of polarization of opinions. There is a significant group on the School Board that wants this complete and total separation and there are some that would at least like to see some discussion about the possibility of sharing services. After a considerable discussion, which I encourage you to watch on MCTV, I reiterated that I felt that this just represented common sense to try to do something like this. I didn't have any other agenda other than saying doesn't it make sense to share services and we could do some things on the City side to do that as well. What happened was Committeewoman Elise, seconded by Committeeman Garrity, the motion was simply to enter into a discussion and that failed 6-8. That is where we are at and that is why I think Alderman Wihby is bringing up some of these questions. I think that is regrettable. I think we need to have more conversations like that about ways that we could do things as one entity as opposed to a School District and a City. My guess on this matter is we are going to be in court for years and years and years and a lot of wasted money, which has already taken place, is going to continue as opposed to sitting in a room and continuing a dialogue to try to think of ways to work together.

Alderman Lopez stated I think the committee is doing a good job but I was wondering if the dialogue of consolidation of those services was on the table with the committee.

Alderman Wihby replied that is one of the concerns that we had at the very beginning that we put on the table and we said that we wanted that answered and we wanted that approved before

we okayed anything else. We sat through all of those meetings and we had four or five items of our own and they came forward today and said here are our items and we don't want to talk about your items and also on the one issue that we had brought up as far as consolidation of the three departments they voted yesterday that they didn't want to do that. Now there are some members of that committee that are in favor of that but there are a couple who aren't. The majority voted not to do it. This is just one job; \$1 million in bonding that could be used. There are plenty of jobs over there that they are filling in Human Resources and Finance and legal...their attorney has been at all of these meetings. He is getting paid. That is a waste of taxpayers money and we could be fixing those buildings just with that amount of money. It is common sense. It is not like we said we want you to do it our way. What we said was we want you to look at it and sit down and start a dialogue on this and that was even voted down.

Mayor Baines stated the aspect that I tried to bring to the table was that perhaps it would look different than the existing structures that we have now. That wasn't even considered. I think it is very regrettable. People are now on record on the way they stand on that issue and they have the right to do that as elected officials and people can look at the way they voted and make whatever decisions they would like to make.

Alderman Thibault stated I am a little bit confused on this. I would like to find out...don't all other City departments use our legal department presently?

Mayor Baines replied yes but there are a few exceptions, especially on some complicated Airport issues and some other specialized issues.

Alderman Thibault responded but the Airport is a separate entity I believe. I am talking about the normal City departments, such as Water Works and Highway...well maybe not even Water Works but Highway, Traffic and many of the other City departments. They use our legal department to answer our questions, don't they Tom?

Solicitor Clark replied yes. The City departments do use our services. The only time that we would hire outside counsel on specialized matters we come to this Board to get permission first. The exception to that is the Water Works on PUC rate matters. They received permission years ago and they have an outside firm do that.

Alderman Thibault stated this is where I am confused. If, in fact, most of our City departments use our own attorneys, I am confused about the School Department not being able to use them. That is where I am coming from. If, in fact, the School Department cannot use them, I want to know why? Is there a legal matter there or something that I don't understand?

Solicitor Clark replied under the past declaratory judgement position, they were deemed to be a District and they do have the authority to go out and spend their money and they have deemed on their own that they would prefer to have outside counsel. Now the School District has

always had some outside legal counsel for special education needs and for other items dealing with Federal law. They have always maintained some outside counsel.

Alderman Thibault stated but that has to be an awful waste of money in my opinion. We have our own counsel that we pay big money to have right here in this City and I can't understand why they couldn't go through that department.

Alderman Levasseur stated first of all the fact that this got back on the agenda perplexes me to no end. This was already voted on and then somehow it found itself back onto the agenda.

Mayor Baines replied could we just ask Mr. Bernier to clarify how that happened.

Clerk Bernier stated I just wanted to give notice to the Board that this action was taken in March of 2001. It was just for notification. The error we made was putting "Ladies and Gentlemen, what is your pleasure?" It is for information only.

Alderman Levasseur stated my point is that when Alderman Wihby proposed this amendment maybe 15 months ago we had a vote here that I believe was 8-6 and, your Honor, you vetoed it and I am wondering what the difference is between what you tried to do...

Mayor Baines interjected I didn't veto it.

Alderman Levasseur stated well you vetoed it going to public hearing the first time and then we got it to go the second time. What the City Charter amendment is trying to do and what Alderman Wihby was trying to do from the beginning was to join the School District together with the City side and what you proposed to do at the Board meeting on Monday, your Honor, was basically the same exact thing as Alderman Wihby's amendment is asking for. Maybe you could tell us what the difference is between what this amendment would do and what you tried to do on Monday night. We want the services to be brought over to the City side. We want them to use our finance services and our legal services and such, the same thing you were talking about on Monday. I am wondering if now you decided that this amendment is a good idea.

Mayor Baines replied we did pass this and it did pass to go forward. You are talking about a year and a half ago. This came back up in June and it passed. There was no veto or anything else.

Alderman Levasseur stated let me make a clarification. I think it was an 11-2 vote.

Mayor Baines replied right, it passed.

Alderman Levasseur responded it was veto proof.

Mayor Baines stated and I understood why it needed to go forward. The difference in the proposal and we have discussed this and there is no disagreement among the committee members who have been participating in this, is that we put forward an option where we could even look at some kind of a new structure. It wouldn't necessarily mean that they would just come over and become part of City government. Just some discussion about the way we could create services that would be shared between the two entities in which each Board would have equal authority and equal reporting. That is the only nuance that is a difference and the group of Aldermen who participated...

Alderman Levasseur interjected this amendment does exactly that though. It does exactly what Alderman Wihby was requesting. It does exactly what the two committees were getting together to do to decide which services would be interchanged or melded together. This amendment is exactly what we want.

Mayor Baines replied I am not sure of that.

Alderman Levasseur asked what is the difference.

Mayor Baines answered the issue of the amendment, even if it passes, it will end up in court. We have no idea on how the courts will rule on this. It will not necessarily clarify the issue to the specific language that you think it will be clarified. My prediction is we are going to end up in court for probably three, four or five more years before the issues that Alderman Wihby and I have been trying to present are actually clarified. They will not be clarified through the court. I thought the best way and I still believe the best way to clarify this issue is to get both Boards together, which we have been trying to do, to get some dialogue to come up with a structure that we could agree to outside of the context of a courtroom and court judgement. That is the essence.

Alderman Levasseur asked so on Monday you had an 8-6 vote saying they did not want to use these services so again we are going to end up in court whether we had an amendment or not.

Mayor Baines answered yes and that is regrettable.

Alderman Wihby stated my comment is just that this whole Board said the same thing. Work with us and work on a solution and let's work together instead of fighting. The vote yesterday told us that they don't care. They want to waste taxpayers money and they don't care about working with the Aldermen and they want to take us back to court anyway. Let them take us back to court because we are going to end up there anyway and let's let the court decide once and for all what is going on.

Mayor Baines replied again it is not all members of the Board.

Alderman Gatsas stated I happened to be at that meeting this afternoon and listened to the bantering back and forth and I think that Alderman Cashin probably doesn't need me to speak for him but I can tell you that from the time that I have been here he has always been an advocate for schools and I think he has defended them in years past but when they took the vote last night it was really a slap in his face. He has been around here for 32 years and really was an advocate for schools and I think he spared no words with the committee that was here. I really feel bad for him. He led the charge at all times being the last one to say let's give the schools another chance. I think they have had the opportunity. I think that any business that would look at a bill that is owed to us for \$600,000 from the 2000 budget year and another \$1.2 million from 2001, I think if you were in the private sector you probably would have been in court already looking for the money because somebody is saying we don't have the documentation or we don't have the correct documentation and Finance is saying well send us the documentation you would like us to provide you and it continues to go back and forth. I don't think that is fair and I don't think that is right. I think that if it is going to be a three year battle in court then we should go do it and get this over with so it doesn't last for another 30 years not knowing where we are at. I think that whatever the outcome is, it is certainly not this Board that brought it forward. They certainly...I think the olive branch has been extended more than once from this Board and nobody has really wanted to step up to the challenge other than being given a draft agreement that if you read it, it actually looked like somebody holding a hammer over your head.

Alderman Lopez stated I concur with both Alderman Wihby and Alderman Gatsas and when this was passed it was under the assumption that the Committee would work with the School Department and anybody else to solve this particular problem. It hasn't work so it is going on the ballot.

Alderman Hirschmann stated I would ask this Board to endorse all avenues to get more money into the classroom whether it be through Charter, through the courtroom or through negotiation with the School Board. If it has to be all three, then so be it. The money has to trickle down into the classroom.

Alderman Vaillancourt stated it should be none that after this was worked on back in March we did get word back from the Secretary of State's Office and the Attorney General's Office saying that this was proper and I think the wording from the Attorney General's Office leads us to think that we might be on the winning side when it finally goes to court.

Mayor Baines called for a vote on the motion to recommend to the School Board that they reconsider their vote and not hire a Human Resources Director. There being none opposed, the motion carried.

Alderman Pariseau stated I will probably be chastised for this but I would like to make a motion that we take a vote of no confidence in Mr. Tanguay based on his activity over the last four years. I did it back four or five years ago but I think we have to send a message to the School Board that we are more fed up than they are with the administration of the School Department. I think this is the only way we can do it.

Alderman Wihby duly seconded the motion.

Alderman Shea stated if I thought it would do any good then probably I would go along with it, but the last time we did it he got a \$10,000 raise. I don't know if Alderman Pariseau is in cahoots with him and he wants another \$10,000 raise.

Alderman Levasseur stated if we would have gone to court in the first place and not yanked that out of court we would have had a decision by a court saying that Mr. Tanguay had gone the wrong way when he did not go to his Board for appropriations. The continued acrimony that we have with the School Board...I think it was Alderman Cashin and there were many other Aldermen when I first became Alderman and yourself Mayor who said that it had to stop some day, somewhere. There are a lot of people on that Board over there who are still loyal to Mr. Tanguay. There are a lot of people who, believe it or not, are teachers who think that he has done a good job fighting for them. I think that by taking a vote of no confidence again sends another message that we are just always going to be battling with the School Board and the Superintendent of Schools and I would vote against a vote of no confidence because I don't think it does anything but create more and more acrimony between the two separate entities of this City and it is time we start working together to join as one.

Alderman Lopez stated I would ask Alderman Pariseau to withdraw that motion. I think it is premature to do something like that at this time because we are trying to cooperate and work with the School Board and I have to agree with Alderman Levasseur. We are sending a bad message here. Let the School Department...there is no sense in trying to bully them into doing something. We realize that they have the authority. They just went through a review process with Superintendent Tanguay and they decided to keep him so I think they have done their job. Let us do our job. Let's not just be pushing the button here.

Alderman Vaillancourt stated I concur with Alderman Lopez. Just because you have a stick doesn't mean you have to beat somebody over the head with it. I don't think it would serve any purpose to beat this man over the head with this stick.

Alderman Shea stated I want to inject that we shouldn't lose sight of the fact that in the School Department...I ride by schools now and schools are going to open in about two weeks and many of the schools have teachers who are setting up their rooms. I think that we should realize that we have a very dedicated group of teachers in our City and I know that a lot of the teachers at Jewett and Hallsville and all of the other elementary schools are there now donating two and a

half weeks before school begins. They don't have July and August off. They have part of July and a couple of weeks in August off and they are in there without pay donating their time and effort to make sure that when the kids come in on August 28 their rooms are right up to par. When we start criticizing the administration because of their spending, I think that it is justified, but we shouldn't lose sight of the fact that we have a very dedicated group of teachers in our community and those of us who have children or grandchildren in the schools should be very grateful for the amount of effort that they put in.

Alderman Pariseau withdrew his motion.

Alderman Wihby stated with Alderman Shea's comments and afraid of what might happen, I am going to withdraw my second.

Alderman Thibault stated I wonder if once again it wouldn't be appropriate to send a very, very stern letter to Mr. Tanguay that we mean that we will not bail him out if he goes over his budget again. That we have done this for two years in a row and we will not do it again. He should be reminded of that right now by this Board. I would like to make a motion to that effect.

Alderman Levasseur asked can I say something to that.

Mayor Baines replied there is no motion on the floor.

Alderman Levasseur responded that is good because you as the person standing there does not have to accept these motions. You haven't in the past so let's not accept it.

Alderman Hirschmann stated I am going to second that motion only because somebody has to take a stand in this room for the School District about overspending their budget and it has to get done and I applaud Alderman Thibault for making that motion. Once and for all, they cannot overspend.

Mayor Baines called for a vote. Alderman Hirschmann requested a roll call vote.

Aldermen Wihby stated can I get a clarification on the motion. All we are doing is telling them that we expect them to live within their budget?

Alderman Levasseur stated I think we need further discussion on this. Again, we have just gone through this and school is about to open in two and a half weeks. We have to stop this somewhere. I think they already know...I think we have sent enough messages. We are just writing another letter wasting more paper and cutting down more trees. I think they can watch TV and see what we are doing. I really am getting sick and tired of all the fighting. It is getting to be too much.

Alderman Vaillancourt stated while I was not prepared to vote for the previous motion and I thank my colleague from Ward 9 to withdraw it, I am prepared to vote in favor of this. It seems like it is a good idea to reaffirm the fact that we won't tolerate this any longer.

Alderman Lopez stated the motion is to just stay within your budget and that is what we tell all department heads. It is no big thing.

Alderman Hirschmann stated it is a message that needs to be sent, your Honor. The Administration that is currently in office at the School District has overextended their budget more than once. You talk about waste of time, there are committees set-up to try to figure out how to pay back all of the dollars that have been overspent. City government shouldn't be doing that. We should be working on other issues and they have to stay within their budget.

Alderman Wihby brought up a point tonight of a new position for over \$60,000 that they are going to hire. Those \$60,000 should be spent in the classroom if they can afford to spend those dollars in the classroom but maybe they can't afford even that. We don't know because it is an open, bottomless pit and we have to stop it.

Alderman Gatsas stated I concur with Alderman Thibault but I certainly don't want anybody to misconstrue that we are bailing them out this year because we haven't seen that final number so nowhere in that letter should anybody have an understanding that this is a go forward but it is certainly a look back to make sure that we finally get a number whether it is a \$2.5 million overspend or a \$3.5 million overspend for this year because we haven't seen that number.

Alderman Wihby stated I just want to go back to what Alderman Hirschmann just said. A \$65,000 position with benefits over 20 years would fund all of the portables that they wanted to have and we could have new additions in there. We could have more stuff for the teachers. We could give teachers raises. We could do a lot more with the money they are wasting on new positions and we have to give them that message, your Honor, that we are not going to let them overspend and also that we are going to watch over what they are doing. We sent a message to them that we didn't want them moving their administration offices and the next day they took another vote saying let's do it. It is almost like we say something and they don't want to listen.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

17. Notice for reconsideration by Alderman Levasseur of motion to invite an engineer from CLD to explain what could possibly be done at the Singer Park site instead of undertaking an assessment and borings.

On motion of Alderman Levasseur, duly seconded by Alderman Wihby, it was voted to receive and file this item.

18. Communication from Alderman Shea requesting that a recently viewed site at Derryfield Park, which includes the tennis court area, be referred to the Mayor's recently established Senior Center Committee for review and consideration.

Alderman Shea stated I would like to have the Board's indulgence please for a few minutes. This is a letter that I wrote on July 31 and in it I mentioned that I would like the new committee that you have initiated to take a serious look at Derryfield Park and the letter itself is included in our agenda so I won't bore the members with that. I would like to, however, discuss this a little bit further. My wife, Irene, arranged a meeting with Senator Bob Smith who referred me to Jeff Rose, his representative dealing with park matters. Jeff put me in touch with Antoine Chasez from the State's Division of Parks and Recreation. Subsequently, a meeting was conducted at the Parks, Recreation & Cemetery Department in July with representatives from the department and myself. We then toured the proposed site for the senior center and were in agreement that this was an excellent site for the senior center. Also, details relating to park matters could be resolved both at the City level and at the State and Federal levels. This site has the recommendation of local park officials and is in an area of the present tennis courts and adjacent area. My motion this evening is that the Board of Mayor and Aldermen accept this area as a future senior center site so that additional time, effort and energy might be devoted to this site and not be delayed because we have wasted enough time as a community in dickering over this matter. Once we select the site for the building and then subsequent appropriation for construction and then resolutions regarding data and so forth can be put to the different City departments. I would like to conclude by saying as the famous Irish politician in our room here has said on previous occasions many, many times when we have encountered various difficulties in various discussions, "it is time, let's get it done." That is my conclusion. I would move to have Derryfield Park chosen as a site for the senior center.

Mayor Baines asked to go to the Committee.

Alderman Shea answered I would like a motion to accept Derryfield Park as the senior center site. I am making that as a motion. That will be the site.

Alderman Vaillancourt duly seconded the motion.

Alderman Wihby stated I don't have any problem with looking at the facility. I think it would be a nice location over there but until we have the specifics and the costs and where it is going and what we are going to do, I don't think we should be voting on it tonight.

Alderman Shea replied if we don't decide on a site, then we will have various sites brought before us and before another year or two years...a decision won't be reached. This is a perfect site for the senior center. It was in the feasibility study that I have here. It was recommended that Derryfield Park be the site. This isn't the site that would incur a lot of wooded area. It is the site now where the present tennis court, which is going to be moved, is located plus the

adjacent area before that. In terms of the seniors themselves, this is excellent. The air is pure up there. There is a large area for them to walk around in. It is accessible. It is an area where you could put a large picnic tent. They could have outdoor activities. They could have different types of functions there. We are not talking necessarily about the cost of the building. We are talking about a site. There is no contamination to my knowledge and what I would like to do, your Honor...I know Ron Johnson is here and I would like him to come up and say a few words concerning this.

Mayor Baines responded we are going to have some discussion by members of the Board first and then we can have him come up.

Alderman Wihby stated I am just not prepared to vote on it tonight because I think we should look into it. I think it is a good site.

Alderman Gatsas stated I think that site has already been proposed for some Federal funds to establish a playground and tennis courts and parking that I believe this Board so graciously allowed us to go forward on during the budget process so that we could receive some Federal funds to do that. I believe the site that Alderman Shea is making reference to in his survey there is the wooded site closer to Trinity is what was proposed. That is what they brought forward as a site that they looked at. I think that before we start jumping into scenarios of tennis courts being removed and places for kids to be playing, I certainly believe that they are on the same level as the seniors but I think this Board with the funds that we had moved around during the budget process because I believe that we were doing the right thing to get Federal funds involved and I certainly don't have a problem having Mr. Johnson come up and address that because my fear is that moving the tennis courts and moving the playground equipment is not what we are talking about here.

Alderman Shea replied I believe that is why I wanted Ron to come up because the intent is to do that.

Alderman Thibault stated I certainly have no problem with picking a site but I certainly would like to have the elderly give us their input on that site. I believe that from the beginning here we have been trying to listen to the elderly as to where they want to go. I think we should get that input before we make a decision. I am certainly not willing to vote tonight.

Mayor Baines asked Mr. Johnson to respond to the comments made by the Aldermen.

Mr. Johnson stated we were asked by Alderman Shea to take another look at the site. We are working with the UPAR program to look at renovating the overall park. The tennis courts are in a state of disrepair and we are looking at reorienting those in other sections of the park. I think it is possible and feasible that we could accommodate both. One of our options...we need to get parking for the park. The senior center site and the senior center buildings would primarily be

used by seniors from 9 AM until 3 PM and our need from parking is mainly from 3 PM until 9 PM for youth sports. There is kind of a dual use of parking. In the original study, the site they selected...I think they wanted approximately a 200-car parking lot, which eats up quite a bit of the park. If we can combine both uses, I think that would be the ultimate goal if it was in Derryfield Park.

Mayor Baines replied the only thing I would say is I don't think a senior center as we envisioned it would necessarily be restricted between 9 AM and 3 PM. I could see hours being much more expansive than that and on Saturdays and Sundays and what have you. I don't think we are going to spend \$3 million or \$4 million to build a senior center and have it restricted to seniors from 9 AM until 3 PM. There is a senior population that is very active and mobile and they are going to be looking to access this facility during many hours of the day, not just until 3 PM. If that is the assumption, I think that is a wrong assumption.

Mr. Johnson responded I think it was taken based upon some of the studies that were done noting that it would be used a lot during the day and then our needs for the park are more in the evening when youth sports start.

Mayor Baines asked, Barbara, am I off there on what I said about the expanded times. Would it be much more than that in your view?

Ms. Vigneault answered currently the senior centers are open from 8 AM until 4 PM and the office is open until 5 PM and sometimes in the evenings we are open longer. We would like the ability once and awhile to be open later than that for different activities.

Alderman Gatsas asked, Mr. Johnson, how does that affect the Federal funds that we are looking for for the park.

Mr. Johnson answered I think right now we are looking for funds...the grant that was submitted was for the playground and this area is away from the playground. The playground is proposed to be relocated right on the corner of the entry drive just below the baseball field. The original site in the feasibility site was up in the corner closest to Bridge Street. I think we could work together and try to get dual use for a multi-generational facility that would provide for seniors plus provide the benefit of not duplicating parking.

Alderman Gatsas replied let's see if we can get a direct answer from you. How does it affect or how will it affect funding that we are seeking at the Federal level?

Mr. Johnson responded for the grant that we are submitting, there would be no effect. It would be for prior grants that we have used at the park. We have used Land and Water Conservation funds so any portion of the park that is taken out of outdoor recreation the City would have to compensate for that square footage and buy property elsewhere. I think that is why the original

site was not looked at at Derryfield Park because of the Federal process that would be involved in that.

Alderman Gatsas asked so what is that going to cost the City if we have to buy additional land somewhere else.

Mr. Johnson answered it would have to be determined. We would have to look at the square footage, get a couple of appraisals and then find additional parkland.

Mayor Baines stated we are going through this on the Granite Street project and we were told that if we take any land from any park that we have to replace it within the fairly immediately geographic area, not just any place in the City.

Mr. Johnson replied it goes a little bit smoother if it is contiguous to the park. It still would have to be within the City. If it was outside of those limits, the review takes a little bit longer.

Mayor Baines responded we were told that it had to be within the proximity and not just anyplace in the City but that is just another issue.

Alderman Pariseau stated I appreciate the work that Alderman Shea has done relative to the senior center and I think he is as frustrated as most of us are, but I can't support just coming out and saying it is going to be at Derryfield Park. I think the original request of sending it to the Senior Center Committee would be more appropriate. I am not supporting the Derryfield site.

Alderman Lopez stated I can support this as a location for Parks & Recreation to look at. I don't support sending it to any committee. I think it should go directly to Parks & Recreation to do the paperwork that has to be done and Ron Johnson you can add to that after I am finished because this is a long shot. They could approve it in the end or they could say no in the end. I think it is a good area and I agree with Alderman Shea. I don't think it can be selected without final approval from the authorities saying that we can have it but as we look forward in the event that somebody has some other location, I think that Parks & Recreation six months ago could have submitted the paperwork and probably would have had the answer by now as to whether or not we could use Derryfield Park. I would recommend, if Alderman Shea would agree to it, that we send this directly to Parks & Recreation and let them process the paperwork and all of the necessary documents to see whether or not this could be the site for a senior center.

Alderman Levasseur asked if we don't put the tennis courts there, can we still get the \$650,000 from the Feds. In other words if we get the money to fix up the park area it doesn't have to have all the same things included does it?

Mr. Johnson replied right now when we submitted the grant the expected budget when it first came out was around \$500,000 and then the City would have to match \$150,000. As we went

through the grant process, the technical assistants in Philadelphia where we submitted to recommended that we not go over \$1 per capita to make our grant more competitive, which meant that we could spend no more than \$107,000 on the Federal share. It ended up that we could only submit a grant for \$150,000 in this grant round.

Alderman Levasseur responded what I am saying is this. If we were to build a senior center in that location, you could use the \$650,000 to build around that senior center. In other words you could put a nice park with granite seats and maybe a fountain...I mean you could use that money with a different schematic or not. That is the question.

Mr. Johnson replied the grant that we submitted right now is just for the playground. We had to scale it back to a total project of \$157,000. At this point, we are only working on the playground. Some additional funds had been requested through the CIP process to do a Master Plan, which would allow us to look at where the tennis courts go, where the parking goes and some of the other issues that need to be done at Derryfield Park.

Alderman Levasseur stated we spent \$40,000 on a study that came up with two sites. Singer Park is gone and now the next site that would seem the natural place to go...I mean the guys who did the \$40,000 study must have taken these things into consideration as far as do we have enough land up there to do it without having to trade off any space?

Mr. Johnson replied the site that was recommended in the feasibility was a wooded tract about 2.5 acres and that included the building footprint plus the parking lot. That was taking up a portion of the wooded section of Derryfield Park. The area that is now being considered is more in the open area. There is a parking lot that is deteriorated and tennis courts that are in poor shape also.

Alderman Levasseur stated I guess the question I really have is if we put the senior site there, the senior center there, are you saying that the tennis courts will stay or they will not stay.

Mr. Johnson replied we did a conceptual plan last year for Alderman Gatsas just to show how we would like to see things be reoriented. The tennis courts were recommended to be put on the rear part of the park on Reservoir Avenue and to be removed from that area.

Alderman Lopez stated my question is this. Alderman Shea is under the impression that you already have approval from people saying that this could be the site but you still have to submit an application right? Is it your understanding that people have told you that they are going to approve this as a site?

Mr. Johnson replied no we would still have to go through the process. The State Parks Office did come down to take a look at it and they said we would still have to follow the same...they call it a six ep conversion process through the Federal government and we would still have to go through that. It isn't a done deal.

Alderman Lopez responded that is the reason that I am saying we should forget the committee, send this directly to Parks & Recreation and let them submit the application. In the meantime if we find some other place at least the paperwork will be done.

Mayor Baines stated that would seem like a reasonable approach. If any site is going to be considered and obviously that was one of the other sites that we could at least initiate the paperwork. Could it take six months, Ron or four months?

Mr. Johnson replied the paperwork would probably take about a month to prepare and then it has to go to Concord and...

Mayor Baines interjected so how long a process.

Mr. Johnson stated six to eight months.

Mayor Baines replied well at least we could initiate the process and then when the Committee is looking at sites we will at least have initiated the process and we will have an answer by the time we are ready to make a final decision. I don't know if Alderman Shea would consider that.

Alderman Shea responded no. My motion is to choose Derryfield Park as the site for the senior center. We have deviated long enough.

Alderman Pinard stated, Ron, I have a couple of concerns here. You know when we have fireworks we have thousands of people who go over there. That is one of the main parks that we have left in the City and I would hate to see it go. How much of the senior center would you take and you are talking about 200 cars? How much of that hill would you take?

Mr. Johnson replied regarding the acreage, the original proposal was for 2.5 acres. Derryfield Park is approximately 80 acres and we wouldn't need all of that because it would be shared parking from our standpoint. They wanted to have a separate parking lot in their feasibility study but we think there are ways to work that out so you could have shared parking. We would have to look at the square footage of the building. I would estimate about an acre to an acre and a half.

Alderman Pinard asked what about the playground for the kids. How much are you going to be taking for that?

Mr. Johnson answered that is what we have our current grant, the UPAR grant that has been submitted, we are waiting to hear if that is being approved. The new playground would be constructed near the tennis courts as they exist, just off the edge by the entry to the park.

Alderman Pinard stated I want a senior center just as much as anybody because I am a senior in this City. I would like to study this further because this is one of the remaining parks that we have in the Queen City. Let's sit down and back up a little bit and take our time because again it is the only decent and nice park that people can go to on Sunday or watch the fireworks from. Just take your time looking at this.

Alderman Gatsas stated I think I have had a few minutes to gather my thoughts because I think you know where I am coming from. What is the total funding that is going to be available at Derryfield Park?

Mr. Johnson replied right now the UPAR grant is approximately \$158,000 or in that range that is available for this year's grant run. That is what we had to submit.

Alderman Gatsas asked and how much is coming in from the City.

Mr. Johnson answered the City's match was approximately \$30,000. It was a 20% match.

Alderman Gatsas stated I sat here with this Board during the budget process and it is certainly not their fault but I listened to four proposals happen and they all said fine, you will get the grant and we will do Derryfield Park next. When did you plan on coming to tell the Board that instead of \$650,000 that was going to Derryfield it was only \$188,000? When did you plan on doing that?

Mr. Johnson replied when we spoke with the folks in Philadelphia that we send our grants to...

Alderman Gatsas interjected when was that.

Mr. Johnson replied this was due in the beginning part of June. I believe I corresponded with some folks in the City like the Planning Department and the Mayor's Office just to get guidance on it. They told us that we would not be successful if we went for the full amount. The \$500,000 was the grant announcement from the Federal government that says that any community could receive up to \$500,000 but they said that if you go over \$1 per capita your grant would automatically be thrown out. They said that we would have to keep it at around \$158,000 to even make our grant competitive.

Alderman Gatsas responded so you are telling me that somebody at Planning and somebody in the Mayor's Office knew about this in June and you were never going to tell the Alderman of that ward that something was happening.

Mr. Johnson replied I believe I corresponded with your office also because we received the letters of support.

Alderman Gatsas stated the letters of support had nothing to do with...there was never a response about the grant amount that came back.

Mr. Johnson replied yes I believe there was. I have the correspondence to your assistant and it went through the whole analysis of us not being able to put in for \$650,000 because the grant would not be considered.

Mayor Baines stated well if he missed it, we missed it because I don't recall seeing anything on that. Again, here we are getting this information now.

Alderman Levasseur stated as I understand it, Mr. Johnson has told us that it will take six months to a year to get the information back from the proper sources in order to go forward with Derryfield Park and in due deference to Alderman Shea, if we were to accept it tonight we would still have to go through the six month to one year process anyway so to accept it would be rejecting other locations and then if we waited six months to a year we may get a bad response or we may get a negative response. I think that the proper process is to go forward with Alderman Lopez's motion that it go directly to Parks & Recreation to get the process started. If we accept it and then they come back a year later I think we are tying our hands. I am not really sure how that works.

Mayor Baines replied in order to do what you just suggested, we would need to defeat Alderman Shea's motion and then entertain another motion.

Alderman Levasseur asked for a point of clarification. Are we going to stick with the motion that was made or the motion that is on the agenda?

Mayor Baines answered the only motion that was made was the motion that Alderman Shea made. This never went into a motion.

Alderman Wihby stated I just want to go back to Alderman Gatsas' question. Didn't we fund \$150,000 from CIP for that park?

Mr. Johnson replied that is what was proposed in CIP.

Alderman Wihby responded right and it passed.

Mr. Johnson stated we only have right now committed towards this grant approximately \$30,000.

Alderman Wihby asked wasn't \$150,000 supposedly going to be used for the grant.

Mr. Johnson answered right and what was considered was the balance of that fund would be used for a Master Plan. Right now, this grant is only for construction dollars so it would allow us to construct that first improvement being the playground. The balance of the \$150,000 could then be used to do a plan that would look at the overall park.

Alderman Wihby stated so we had \$150,000 that we said we were going to use to put towards the grant. CIP voted on that and the full Board voted on that in the budget and Parks decided based on the information you got that you could only use \$30,000 for the grant. Can you just spend the other \$120,000 or do you need to come back to CIP?

Mr. Johnson replied we would probably have to go back and look at the Resolution. It was probably specific to the grant. We would have to see if the balance could be used for construction or improvements or for planning purposes to look at the overall park.

Alderman Wihby asked but you haven't done that yet.

Mr. Johnson answered no.

Alderman Wihby asked so it has to come back to CIP.

Mr. Johnson answered we are waiting to see if the grant is approved by the National Park Service. We should hear something in September.

Alderman O'Neil stated I just want to make a clarification. What we approved in CIP was \$150,000 to match a grant of \$500,000. There was never, for actual construction and improvements, there was never any discussion that that money could be used for a Master Plan. That is wrong, Ron, to say that. If it is to be used for a Master Plan it better be brought back before the CIP Committee.

Mayor Baines asked the Clerk to get the minutes from the discussion around that and provide it to the Board.

Alderman Lopez stated I would like to make an amendment to the motion on the floor if you will accept it that the Parks & Recreation Department will submit the necessary paperwork for Derryfield Park as a potential site for the senior center and when they get the final answer they will report back to this Board.

Mayor Baines asked so that would be an amendment attached to this motion.

Alderman Lopez answered that is correct.

Alderman Shea duly seconded the motion.

Mayor Baines stated we could spend the entire night...

Alderman Shea interjected that is why I would like to move the question.

Mayor Baines stated I would suggest that we just vote on your motion to see where the votes are and then look at other alternatives. Let's call for a vote on your original motion.

Alderman Shea requested a roll call vote.

Mayor Baines asked the Clerk to read the motion.

Clerk Bernier answered the motion is that Derryfield Park be picked as the site for the senior center.

Aldermen Shea, Vaillancourt, Hirschmann, and Levasseur voted yea. Aldermen Pariseau, Cashin, Thibault, Wihby, Gatsas, Sysyn, Pinard, O'Neil and Lopez voted nay. The motion failed.

Alderman Lopez moved to have the Parks & Recreation Department submit the proper paperwork for Derryfield Park as a potential site for the senior center and once they get a final answer to report back to the Board.

Alderman Shea duly seconded the motion.

Alderman Thibault stated one thing that we have to look at here is that this is not my senior center. I don't believe that it is any Alderman's senior center. It is the senior's senior center and why can't we get input from them as to where they would like it. That is the only reason I have a question on what was brought up.

Alderman Wihby asked if we submit something and then we change our mind is that a big deal. I don't know if it is a good site or not until I hear something, but if you go ahead and submit this paperwork and then we decide that we don't want to put it there because another site pops up, have you done anything wrong?

Mr. Johnson answered no. I think it is just a proposal. What we would probably need clarification on is if the square footage has been determined and if they have a building footprint we would need that to submit.

Mayor Baines stated so it doesn't lock us into a site, it just goes through the process so that at the end of the day that is where we settle and we have a yes or a no. That is all it does.

Alderman Wihby asked what are they submitting. What are you going to submit if we tell you to go ahead and do it? Do you know what you are putting in?

Mr. Johnson answered there was a proposal in the feasibility study for Derryfield Park. We could meet with the Senior Center Committee and Elderly Services to see if that is the footprint that was approved and what they wanted to do and we would submit that.

Alderman Wihby asked then what happens if it is approved and the Aldermen vote a different footprint. Shouldn't we be taking it in steps? Shouldn't we be deciding with the Committee first on what we want to do and if that is a good site and then have them go out and study it? I agree with Alderman Thibault.

Alderman Gatsas asked, Ron, the proposed senior site that you and Aldermen Shea met and discussed, how does that fit with the conceptual plan that I am under the understanding that Derryfield Park was going to have.

Mr. Johnson answered I think it was based upon that building footprint and rather than being up on the corner when we met with the Parks Service they recommended that the area that was originally proposed was a wooded tract and they said that would probably be looked on less favorably then if you put it in an area that had a parking lot and tennis courts because you are not taking away from the park. That is why they favored having it out in the open area a little bit more. Just from a standpoint of visibility and if you have been to that site, it is just above where the gazebo is. It has a commanding view of the City. I think it offers a beautiful site for a building.

Alderman Gatsas asked so what are you eliminating, the tennis courts.

Mr. Johnson answered the tennis courts and then the parking lot would be reworked.

Alderman Gatsas asked reworked to where.

Mr. Johnson answered around that center and it would also accommodate the recreational use at the park.

Alderman Gatsas stated, your Honor, I sat around here and watched money move around during the budget process somewhere around \$1.4 million and I was pretty content because I was assured by the rest of my colleagues here that because we were getting \$500,000 in Federal funds that we would do the allocation of Derryfield Park in that manner or I certainly wouldn't have given up the fight for the \$1.3 million that was floating around. I think that I would have stepped up and told somebody else to take a look at those Federal funds but because of where we were going, my colleagues went along with it with the \$150,000 and \$500,000 on the grant. I am sitting here saying that Derryfield Park was on the fast track because Alderman O'Neil put in that \$150,000 and said that is what we were going to do. Now at no time did anybody on this Board understand that the fast track was not going to happen and that that park was not going to be fully completed with the conceptual plan that we all saw. I think you need to tell the rest of us how you made a decision on what was going to happen.

Mayor Baines replied I think we need to have Ron Ludwig come in to the CIP Committee and explain that situation.

Alderman Gatsas stated I think before we make any decision on a senior center we need to see the conceptual plan of Derryfield Park.

Mr. Johnson stated for a point of clarification on the grant, unlike a lot of the other Federal funds that come to the City these are competitive grants and there is no guarantee that the City will receive these. It is all based on...we had to put together a detailed application and it is based on population, income, and all of these different factors. It is a competitive grant that goes to Philadelphia and then it goes to Washington, DC. There is never a guarantee that the City will receive these funds.

Alderman Gatsas replied I believe you sat in front of this Board and told us that looking at the grant we were in pretty good shape and could achieve those funds. Did you not say that?

Mr. Johnson responded from what we heard from the State we are the only community in New Hampshire that is eligible for those funds. We are the only larger community.

Alderman Cashin stated it is obvious that a lot of this discussion here tonight has to go to a Committee someplace. It doesn't belong here. You are not going to accomplish anything here tonight. My recommendation would be to refer the whole question to CIP, including the funding and the location and get the elderly in to find out if this is what they are looking for and let's get something done. You are not going to get it done here tonight. I move that it be referred to CIP.

Mayor Baines replied we already have a motion on the floor.

Alderman Shea stated I just want to comment that it took three years for Prouts Park to be renovated, Alderman Gatsas, so patience is a virtue.

Alderman Gatsas asked can we put the senior center there, Alderman.

Alderman Shea answered no but if I could I would. It is not big enough. Basically it took three years and I think Ron will attest to that. Obviously that is a concern that you have but patience is a virtue. In regards to Alderman Thibault, I would like you, Barbara and Claire, to survey the seniors and found out if, in fact, they would want Derryfield Park as a senior site and come back to the next meeting with the results. If you could do that, I would appreciate it. Could you do that, Barbara? If the seniors are not in favor of Derryfield Park we can eliminate it. If they are overwhelmingly in favor of Derryfield Park as a site then I think that there would be more grounds to consider it very strongly.

Alderman Levasseur stated if we were going to go on surveys, there have been many surveys, and the overwhelming support was for Singer Park. Your Honor, I think we are almost at the point again where we are bashing our heads into the wall and we are going to have to end up building two sites. I think there are people on the east side who want an east side location and there are people on the west side who want a west side location. We tried to find a middle ground where both could be happy. We couldn't get that site together. I think that we should make a compromise here to Alderman Lopez. I think what we need to do is just to have a conceptual design, your Honor, on what is being proposed by Alderman Gatsas and what is being talked about with Mr. Johnson. I think that if you could come to the next meeting and give us a conceptual design and we could get an idea of what we are looking at for a design maybe we can go from there. Do you think we can do that? If Alderman Lopez withdrew his motion, we could go with this one.

Mayor Baines are you willing to withdraw your motion, Alderman Lopez.

Alderman Lopez answered no but I would like to comment on my motion. With all due respect, this has been kicked back and kicked back to Committee and back and forth. Ladies and gentlemen, we are not doing anything other than sending the paperwork forward. It is not costing money to find out if we can do this and bring this forward. I don't think this has to go to any committee or anything. This is just a simple decision-making process here to me.

Alderman Vaillancourt stated since I do believe in free speech and open debate, I am going to do something now I hardly ever do but I kind of feel like that little girl on the Exorcist who spins her head around and says make it stop. Please make this debate stop. I move the question.

Mayor Baines asked the Clerk to read the motion.

Ms. Thibault answered the motion is to have Parks & Recreation submit an application for Derryfield Park as the site for the senior site and report back to the Board.

Alderman O'Neil stated if the application goes forward and says it is a 20,000 square foot building located where the tennis courts are and for some reason the size changes or the location changes, what does that do. I think Alderman Gatsas asked this question and I am not sure it was answered. What does it do to the application? Does it void the application?

Mr. Johnson replied I think we would have to be pretty confident that it was the right size building otherwise you would have to go back. It is all based upon the square footage that is being taken from the park and then we would have to find additional lands elsewhere.

Alderman Wihby stated we have a good solid proposal in front of us to see if Derryfield works. We ought to just take the time, send it to the Committee that you formed, let them decide if they want it there, let Parks work on it and send it to whatever Committee to make sure that the funding is there and then move forward. We are going back to where everybody has their hair up and we are going to end up fighting over this again.

Alderman Levasseur duly seconded the motion to move the question.

Mayor Baines called for a vote on moving the question. There being none opposed, the motion carried.

Mayor Baines requested a roll call on the main motion on the floor.

Alderman Thibault asked that the motion be read again.

Ms. Thibault stated the motion would be for the Parks & Recreation Department to submit an application for Derryfield Park as the site for the senior center and report back to the Board.

Aldermen Levasseur, Lopez, Shea, Vaillancourt, and Hirschmann voted yea. Aldermen Sysyn, Pinard, O'Neil, Pariseau, Cashin, Thibault, Wihby and Gatsas voted nay. The motion failed.

Alderman Wihby moved to refer the communication to the Senior Center Committee. Alderman Pariseau duly seconded the motion.

Alderman Thibault asked will the seniors be involved in that.

Mayor Baines answered yes.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

19. Communication from Alderman Vaillancourt regarding concerts at Singer Park and suggesting changes to the Code of Ordinances.

Alderman Vaillancourt stated I submitted this letter a couple of weeks ago because first of all I received a letter from a constituent in Ward 8 and I sent a copy of that. Secondly, I read this letter to the editor in the newspaper that seemed to make a lot of sense. Thirdly, because I wasn't sure there was another way of getting this item on the agenda but it seems that this certainly should be on the agenda. This, by the way for those of you out there who aren't familiar with it since the agenda is only in front of those of us sitting here, this concerns concerts at Singer Park. If there was no other way of getting this on the agenda, I thought it was a fitting way to get it on the agenda tonight. In my letter, one of the things I noted was that currently the City Clerk himself is the person who issues the permit for these concerts. Of course after that it has to be approved by the Board of Health, the Health Director, the Police Chief and is it the Fire Chief as well?

Clerk Bernier replied Police Chief, Fire Chief, Health Department, City Clerk's Office...

Alderman Vaillancourt interjected so as it now stands look at it this way. If you as the City Clerk approved and the Fire Department approved and the Health Department approved, the Police Chief could be the one person in the City denying the concerts. Is that what we want? As it now stands, the Board of Mayor and Aldermen, duly elected representatives in this City, would have nothing to say about these. It seems to me that when we close a street or a portion of a street for a few moments in a day, that has to come to the Traffic Committee for approval. My idea was that this should go to some committee. Now in the letter I wrote I think perhaps I made a mistake in saying the Traffic and Public Safety Committee. I think probably the proper committee should be the Administration Committee. I think my motion would be, if you want a motion...do you desire a motion?

Mayor Baines stated this would actually just be referred to the Committee on Bills on Second Reading wouldn't it.

Clerk Bernier replied it should be referred to the Committee on Administration.

Alderman Vaillancourt moved to refer the item to the Committee on Administration. Alderman Pariseau duly seconded the motion.

Alderman Gatsas stated I read a quote in the paper that thoroughly upset me about the Singer family. I know the Singer family well. I grew up in this City. For Mr. Comstock to say that the notoriety that they received because of what has been happening is absolutely unfair. It is not right. Again, somebody is sticking themselves in the middle of a situation in a family that has been part of this City for an awful long time and if they want to believe for one second that the Singers do anything because they are looking for notoriety, that is wrong. That is just like

somebody accusing those 60 French old ladies of complaining about the concerts. I think Mr. Comstock certainly owes the Singer family an apologize. I don't think they are looking for notoriety and I don't think they did that for that reason. I think they spoke about what their views were that they don't believe that something to that magnitude should be happening at something that is named after them. I called Steven Singer this morning and certainly extended my apologies, but I think Mr. Comstock should understand what happens in this City and some of the people that are around. I think he owes the Singer family an apology.

Alderman Vaillancourt stated long before there was Slipknot and Disturbed and Mudvane, there was a group called The Kinks and a great singer by the name Ray Davies who, in a song called "Know Your Rights" came up with the immortal line "you have a right to free speech unless of course you are crazy enough to actually use it." Well, Ray Davies and The Kinks and a lot of other singers who have stood up for free speech might have been shocked by something they saw tonight. Down in the plaza after Rock 101 motivated people to come here today we had a bunch of people who have no respect for free speech because just by coincidence as they had gathered at an ad hoc meeting, there was another group that had gathered down there and it was a group that Don Welch has put together called The Weigh-In in which candidates for office would come and weigh in and they were filming this so that the people of the City could see the stance that people would take with free speech and he had tonight the issue of revaluation as the free speech issue. These people who want free speech, who want their concert goes to yell their filthy speech out wouldn't allow those people who had been scheduled to come down there and speak freely about the issue of the day without waving their signs in back of them and shouting down. I don't think you ever shout down people in the name of free speech. This isn't about free speech. It is about a right of a certain small group of people to impose their views on others and I think the City should take that into account when we move forward. Noise levels like we have had are not a right of free speech. It is the matter of my fist coming into contact with your nose and that is not free speech; it goes beyond free speech.

Alderman Shea asked so once it goes to Administration, before another rock group comes into the City we as a Board can say we do not want you to perform here or we do want you. Would that be a result of the referral to Committee?

Mayor Baines answered that is something for the Committee to decide.

Alderman Gatsas stated I think this issue is an issue that should be discussed at the full Board level. I don't think this is an issue that should just be determined by a committee. I am certainly not opposed being the Chairman of that Committee.

Mayor Baines stated I am going to ask Solicitor Clark to speak briefly on some of these issues.

Solicitor Clark stated my office has been asked to look at this kind of carefully this afternoon. The issue presently before the Board or the discussion is about concerts. This Board and its

predecessor boards have developed a policy or a process by ordinance as to how you allow concerts to be promoted here in Manchester. That calls for an application to the City Clerk's Office and he processes it through various departments that are deemed to be necessary on that matter and then upon a decision by those departments, he issues or denies a license. In the case of a denial of a license, the applicant then has the right to appeal to the Administration Committee. The Administration Committee is then sitting in a quasi-judicial capacity as a judge hearing evidence and making a determination. I would caution this Board very strongly that any discussions here tonight that are aimed at any particular concert or proposed concert should not be held. This Committee on Administration which in the event that it does become involved would be tainted if they take a position publicly today and it would affect any challenges in court in the future. You have a process in place and I believe you should let it play out.

Alderman Gatsas asked, Tom, are you telling me that if the Administration Committee takes a position on and let's change it from a concert to a taxicab license, if the Committee so chooses to not issue a license can the entire Board overrule it.

Solicitor Clark answered according to the way the ordinance is written now, no.

Alderman Gatsas asked if we issue a license for a hot dog stand, can the full Board override that.

Solicitor Clark answered I believe it is a decision of the City Clerk subject to an appeal to the Administration Committee the way the ordinances are written.

Alderman Gatsas stated I am saying that the Administration Committee says that we are denying someone a peddler's license or a license for a cart. Can the full Board overturn that?

Solicitor Clark replied no, not the way the ordinance is written.

Alderman Gatsas stated so what you are saying is that the Committee on Administration rules in the end.

Solicitor Clark replied that is correct.

Alderman Gatsas stated then I would say with that motion the liquor license that is placed at that venue should certainly be coming to the Administration Committee also.

Solicitor Clark replied I am not sure I understand the question.

Alderman Gatsas responded the liquor license or the application for one at Singer Family Park...

Solicitor Clark interjected the City does not issue a liquor license, the State issues it and this Board has taken a position through the Administration Committee and I think reported to the full Board on how that is to be handled.

Alderman Gatsas asked but is it not true that they must receive individual licenses for events.

Solicitor Clark answered not for a liquor license.

Alderman Lopez stated I don't mind having it go to the Administration Committee but I wish we could deal with it as a whole body because it is a sensitive issue. In conjunction with what Solicitor Clark said I have a question for him. Are you telling me that if this Board would make a policy of standard outdoor policies on concerts that we would not have that authority?

Solicitor Clark replied no that is not what I said. This Board has the power to change its process that is established by ordinance and I believe that is what Alderman Vaillancourt has started tonight to look prospectively. Any discussion on particular concerts that have been proposed or are already in the application stage where this Board may or may not take a position on could taint any future decision by the Committee on Administration if we end up in court.

Mayor Baines stated the only thing he is saying is that there are certain processes that are already in place for what is happening now under the established ordinances that are in effect and those will proceed in accordance with those established ordinances. I think whatever changes would be made would be applicable to any that would follow. Am I correct on that, Solicitor Clark?

Solicitor Clark replied that is correct.

Alderman Lopez asked isn't it true that we could suspend the rules on any ordinance at this meeting or any Board meeting we have.

Solicitor Clark answered you have the right to suspend the rules and to pass ordinances, correct.

Alderman Lopez asked are you referring to the Committees that have the authority or what ordinances are you referring to.

Solicitor Clark answered the business license ordinance.

Alderman Lopez stated in reference to the duties of the committees, which have the authority to approve certain things like Traffic has jurisdiction and stuff like that and that is spelled out here so if this Board was to make a suspension of the rules tonight and make any type of policy we want, that would be in order. Is that correct?

Solicitor Clark responded you have the right to suspend the rules and change ordinances, however, I would caution you that if you do that aiming it at a particular entertainment or particular concert, then you are placing the City in jeopardy.

Alderman Levasseur stated point of order. We are discussing a motion and the motion has been made. If you want to talk about what you want to talk about it has to come up under new business. Your Honor, the motion that has been made is to send this to a Committee. We are talking out of line of a motion. We need to talk about the motion. I don't have a problem discussing it, but let's bring it up under new business because what we are talking about are two different things. We are talking about changing the ordinance and now they are trying to say let's do something right now about the concert. Those are two different issues. I think we should stick with protocol and vote on this motion to send it to Committee and then bring this up under new business if we want to.

Alderman Lopez stated point of order. I need clarification from the City Solicitor in order to vote on the motion to send it to the Committee and that is the reason for some of these questions. What will happen in the meantime when the Committee is addressing this and these concerts come in here with the foul language? Are we still going to allow it? We haven't heard from the Chief of Police yet. I hope tonight we hear from the Chief of Police.

Mayor Baines replied again this will be going to Committee and there will be some discussion. The only thing I am asking is that the City Solicitor has cautioned us to let the processes proceed as are presently established within the ordinances for anything that is in the process right now.

Alderman Hirschmann stated some of us here are at a disadvantage because we serve on the Administration Committee. The Solicitor has ruled that we are quasi-judicial and we are unable to speak right now. I am not able to say what I want to say. Let's move the question to where we can discuss this, which is at the Committee.

Alderman Vaillancourt stated my point of order was that you as the officiating body have to rule on Alderman Levasseur's point of order and I disagree with his point. As the person who made the original motion, I think Alderman Lopez's comments were certainly pertinent to the motion and I think that is the way we should be proceeding so I would ask you to rule on the point of order.

Mayor Baines replied I concur.

Alderman Thibault stated over and above all of that, your Honor, we have laws on the books right now. I am not trying to change anything. We have laws that are right here on the books and I would like to have the City Solicitor explain to me how...here is what it says in the law "no person shall sing or repeat or cause to be sung or repeated any lewd, obscene or profane song or word nor write or mark in any manner any obscene or profane word or obscene and

libidinous figure or representation.” If it is not permitted on radio and TV, your Honor, why is it permitted here?

Alderman Levasseur stated I make strong warning at this time right now that we are entering into a lawsuit that is going to put this City at risk of taxpayers money because of this discussion. I agree with the City Solicitor. We are going down a very slippery slope here.

Alderman Thibault stated I talked to the City Solicitor before on this and he knows the law I am talking about. I guess my question is this. Why is it that according to the law the City of Manchester, we the Board of Mayor and Aldermen that was here at one time that made this law, that it is not adhered to?

Solicitor Clark replied that is an ordinance that has been on the books...I couldn't tell you how long it has been on the books. It is an ordinance that says that no person shall sing an obscene or lewd song in Manchester. The problem is that it has no criteria. It has no definition of what is lewd or obscene. Based upon our research and what I have told you, it is an ordinance that would be held completely invalid by the courts.

Alderman Thibault asked in that vein why couldn't we go along with what Alderman Lopez is bringing up right now and change this rule or this law so that we can make it final that this cannot happen.

Alderman O'Neil asked does the Board of Mayor and Aldermen have the right to determine by ordinance the days and times of concerts in this City.

Solicitor Clark answered yes.

Alderman O'Neil asked does the Board of Mayor and Aldermen by ordinance have the power to decide in the interest of public safety how many police officers or firefighters are at an event.

Solicitor Clark answered yes.

Alderman O'Neil asked does the Board of Aldermen by ordinance have the power to determine what type of event alcohol is appropriate at.

Solicitor Clark answered I believe you have the authority to make recommendations to the Liquor Commission. I believe the Liquor Commission makes the final determination.

Alderman O'Neil asked so we don't have that specific responsibility.

Solicitor Clark answered without further research I couldn't give you a better answer on that.

Alderman O'Neil stated my final question is with regards to a contract. Are we locked in on the contract with regards to parking revenues to a certain date? Originally it was negotiated based on three concerts and if there are going to be more does the parking agreement stay in effect?

Solicitor Clark replied it is valid until the end of February.

Alderman O'Neil asked no matter how many events are held.

Solicitor Clark answered correct.

Alderman Levasseur stated I just want to again say that the City Solicitor is correct on this point. He knows where he is going and he has given us ample warning. Mr. Clark, do we have insurance for lawsuits that would be instituted if we did not allow a concert to do through?

Solicitor Clark replied the City of Manchester is self-insured.

Alderman Levasseur asked so in other words if we were to be found at fault for \$1 million, where would that money come from. Do we have an insurance policy or does that have to be raised through tax revenue?

Solicitor Clark answered the City doesn't carry a policy for this type of activity. It would have to be raised.

Alderman Levasseur asked in other words if we entered into a lawsuit we would be putting the taxpayers at risk for that money, correct.

Solicitor Clark answered correct.

Alderman Levasseur asked and at this point in time as we now speak do we have the right as this body sits here today to decide which concerts can or cannot come into Manchester.

Solicitor Clark answered I would advise against it at this point.

Alderman Levasseur asked in other words the ordinance that is in effect right now determines the procedure and the procedure does not include the Board of Mayor and Aldermen at this time.

Solicitor Clark answered that is the way it is drafted.

Alderman Levasseur asked could you explain to us what the procedure is right now.

Solicitor Clark stated maybe the Clerk could explain it better.

Clerk Bernier stated what I am going to do is shift it to Matthew Normand who deals with this every day.

Mr. Normand stated the process is that if a license is denied it would go to the Committee on Administration and that is essentially the final step.

Alderman Levasseur replied before we go to the denial part...

Mayor Baines interjected let's go through the whole process leading up to a final approval.

Mr. Normand stated an applicant submits an application to our office. It is sent to various departments depending on the type of activities that are being conducted. The office waits for a response. Often times there is dialogue that goes back and forth between the departments, our department and the applicant. Once everybody comes to agreement, if there is an agreement, the sign-offs or the approvals from those departments are sent back to our office.

Alderman Levasseur asked which departments.

Mr. Normand answered it depends on the activities. For a concert, you would have the Police Department, Fire Department, and Health Department. Those are the three for this concert series. We would then...if there is a problem and there is a sign-off that is not granted or there are conditions placed on the license we would either send the denial back to or inform the applicant that there is a denial and they could then request a hearing, which they must do within 10 days of the denial. Then at that point if, in the case of a denial, the Committee on Administration per ordinance is required to set a hearing date at their earliest possible convenience. That is the process for an application and subsequent denial.

Mayor Baines asked generally if you have a process in place and people are following the process, if you are going to change it don't you usually change it to protect yourself legally before people get engaged in the process.

Solicitor Clark answered the general process is to change it prospectively when things are not already in the pipeline.

Mayor Baines stated otherwise you can get charged with what, circumventing the process.

Solicitor Clark replied you could get charged with pre-judgement or contractual interference. There are a number of things that could happen.

Alderman Levasseur stated just let me finish up on the procedure. At this point in time if the permit process is denied by one of the four that is supposed to sign off the next procedure would

be to go to the Committee on Administration, which is where we are going to send this anyway. Should we allow this process to go forward and then would it come up to the full Board?

Mayor Baines replied it would go to the Committee on Administration. The City Solicitor has advised you to let the process go forward as is and then receive this in Committee for consideration at a future date in terms of responding in the future. I believe that is what he has advised.

Solicitor Clark responded that is correct. I believe that this Board has the right and the ability and probably should look at how the process will be handled in the future.

Alderman Lopez stated I don't have a problem with it going to the Committee on Administration and what Matt said and what Alderman Levasseur said. I wish at the end of this meeting we would have an opportunity to talk to the Chief of Police. Will you allow that?

Mayor Baines replied we can always talk to the Chief of Police. Let's go through this first and I want to do a proclamation before Willie leaves us here.

Alderman Lopez asked so as long as we have the opportunity we can have the Chief of Police address us.

Mayor Baines answered yes.

Alderman Shea asked, Matt, in the past I was on the Administration Committee and certain applications were denied is that correct.

Mr. Normand answered that is correct. Well, denied by our office?

Alderman Shea replied by your office in certain cases but also denied by the Administration Committee correct.

Mr. Normand responded sure.

Alderman Shea asked in other words if someone were to come before the Administration Committee and ask for, we will say their taxi license to be renewed and there was some kind of a problem and it was denied, wouldn't that be the same process if some controversial rock group were to come into the City and that application were denied or is there a difference.

Mr. Normand answered I just want to clarify one thing. On this process, the individual departments do not necessarily deny. They just convey to us that they have problems with the application and it is our office that has the responsibility of denying or approving the application. If there is a reason either through the conveyance of one of the departments or a

violation of ordinances and we are required to deny it then we would deny it and it goes to the Committee on Administration and they have the choice of...regardless of whether or not we have denied it they can approve it or deny it again, which would then be the end of the process for the City.

Alderman Shea asked in other words if the City departments that sign-off all sign-off and say this controversial rock group is acceptable you are saying then that it goes before the Administration Committee and the Committee says...let me hypothetically say that on certain grounds, morale or whatever grounds that they do not want this and it is something that is going to be disruptive to the community, they cannot deny that on that basis or can they.

Mayor Baines stated he is not a lawyer and I am going to caution the Board. We are going to deal with a legal response here and I want to caution the Board that the City Solicitor has advised us of how to respond to this situation and that we allow the process to continue and leave the Board of Mayor and Aldermen and especially the Committee on Administration that they can hear any appeal that might come through the process and we are close to moving beyond that. We need to be very careful.

Alderman Shea asked in other words if the Health Department says that the decibel levels are injurious to youth...

Mayor Baines interjected and they denied it and then it would come to the Committee on Administration. Any denial would come.

Alderman Cashin asked can I move the question.

Alderman O'Neil asked if I wanted to introduce an ordinance with regards to what day or hour an activity in this City is appropriate could I do that at the September 4 meeting and we could suspend the rules and adopt it that evening. We wouldn't necessarily have to send it to Bills on Second Reading?

Mayor Baines replied that is correct.

Alderman O'Neil asked or if I wanted to introduce an ordinance with regards to public safety for an event with regards to the number of police officers and firefighters and health inspectors I could do that that same evening.

Mayor Baines answered yes.

Alderman O'Neil asked what would be the process if I, as an Alderman of the City, wanted to send a letter or correspond with the State Liquor Commission with regards to a concern of alcohol at a specific concert. What would be the proper process?

Mr. Normand answered you can always communicate with the office. We work with the State Liquor Commission on a weekly basis sometimes so we would convey any message that the Board wanted to convey.

Alderman Levasseur stated I have a point of order. Instead of going to the State, Alderman O'Neil, you could always ask the concert promoters for a reasonable time like they do at hockey games.

Alderman Vaillancourt stated that is not a point of order.

Alderman Levasseur replied that was just a clarification but the point of order on Alderman Shea was that if the permit process...if it is accepted and everybody signs off it does not go to the Committee and I wanted to clarify that for Alderman Shea.

Alderman Wihby duly seconded the motion to move the question.

Alderman Vaillancourt stated I am very much against moving the question on this. I think this is a very important issue and a lot of things have not been said. I don't think we have beaten this horse to death and I think a lot of things need to be asked. For example, I wanted to just clarify with the Solicitor and that is why I wouldn't want to move the question because the Solicitor has told us that Alderman Thibault's ordinance that he referred to is basically null and void and that we can't do anything to control filth. That is what we have been told by the City Solicitor. I would like to know before we move the question can we do anything to control the noise or decibel level?

Solicitor Clark replied you have the authority to adopt ordinances controlling noise levels.

Alderman Vaillancourt asked so we could do that.

Solicitor Clark answered yes.

Alderman Cashin stated at the advice of our attorney we have been told to send this to the Administration Committee with the least amount of conversation as possible and I wish you people would listen to that. There is a reason for it, believe me.

Mayor Baines called for a vote on the motion to move the question. The motion carried with Alderman Vaillancourt being duly recorded in opposition.

Clerk Bernier stated the motion is to refer the item to the Committee on Administration.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Mayor Baines asked Willie Aubin to come to the podium. Ladies and gentlemen, you have before you one of the most distinguished public servants in the City of Manchester and one of the great things you get to do as Mayor on occasions such as this is to tell the entire community about this man's service to our community in the form of a Proclamation:

Wilfrid Aubin has served the City of Manchester ably and well for 13 years as the Commissioner of the Manchester Housing and Redevelopment Authority. His dedication to duty and collegial nature endeared him to MHRA residents, staffers and to his fellow commissioners and his tenure as a Housing Authority Commissioner was characterized by sound reasoning, calm demeanor and a knack for creative problem-solving and these qualities will be sorely missed. I, Robert Baines, by virtue invested in me as Mayor of the City of Manchester in the State of New Hampshire, do hereby proclaim today as Wilfrid Aubin Day in the City of Manchester and call upon all Manchester citizens to congratulate this outstanding citizen for his years of dedication to our community.

Mayor Baines called for a recess.

Mayor Baines called the meeting back to order.

20. Communication from the City Clerk requesting the Board set the polling hours for the Municipal Primary and State Special Primary Elections to be held on September 18, 2001, to begin at 6:00 AM and end at 7:00 PM.

On motion of Alderman Pariseau, duly seconded by Alderman Sysyn, it was voted to set the polling hours for such elections as presented.

21. Communication from the Elderly Services Director requesting the Board authorize negotiations for the possible lease extension of office space located at 66 Hanover Street.

On motion of Alderman Levasseur, duly seconded by Alderman Pariseau, it was voted to authorize the Mayor to execute documents for a two-year lease agreement extension for property at 66 Hanover Street, subject to the review and approval of the City Solicitor.

22. Communication from the Chief Sanitary Engineer requesting that the Board make a finding that the Pond Drive Sewer and Pumping Station project is a "public need" and grant permission to acquire temporary easements and permanent easement from the owners of Lots 779/15, 779/16, 779/17 and 779/23.

Alderman Vaillancourt stated in honor of Ward 8 I wanted to move this myself because the people of Ward 8 have been promised this on Pond Drive for 30 years and we are moving in that direction so I just thought it would be up to me to move this.

Alderman Vaillancourt moved to refer this request to public hearing at a date to be determined by the City Clerk. Alderman Shea duly seconded the motion.

Alderman Lopez stated I talked to Frank Thomas earlier tonight and he has a communication from John Tierney and there is a possibility that if things can be worked out this meeting won't be required.

Alderman Vaillancourt replied that would be wonderful and we might be able to begin this fall and the people would really appreciate that.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

- 23.** Communication from the Chief Sanitary Engineer seeking the Board's authorization to apply for 20% State Aid Grants for various projects as outlined herein.

On motion of Alderman Sysyn, duly seconded by Alderman Pariseau, it was voted to grant authorization to apply for funding as outlined.

- 24.** Communication from the Finance Officer advising that there is a sufficient balance in the City's Contingency Account at year-end to contribute \$10,000 to the Manchester Professional Firefighters Association to help defray the cost of Firefighter Anderson's funeral expense.

Alderman Thibault moved to approve the contribution. Alderman Pinard duly seconded the motion.

Alderman Pariseau stated I believe this item came up in February. I don't know if we should start setting a precedent for making contributions to the Firefighter's Union in this regard. I thought the money was to come out of the Highway snowplowing account if there was any left. Now we are switching over to contingency.

Mr. Clougherty stated what was submitted was a request to take it out of contingency. At the time, we had concerns that there wouldn't be enough money in contingency because of the demands that were being put on for Welfare and for some of the snowplowing. The way it was left is we would encumber the funds if they were available at year-end. We have now gone through the exercise of closing the books and if you read my letter there isn't sufficient money in contingency because we had to use that but there is money in civic contributions and if the Board wanted to use those dollars for this purpose since they had already earmarked it earlier, we would make that as part of the year end closing.

Mayor Baines called for a vote. The motion carried with Alderman Hirschmann being duly recorded as abstaining.

25. Communication from the Public Works Director advising that due to information received verbally from the School District, the FY '02 Building Maintenance Budget as it relates to School Chargebacks will not fund the custodial contract enhancements and additional departmental personnel.

Alderman Wihby asked can Frank Thomas come up. In the budget process weren't we told that some Committee over at the School Department wanted this and was recommending it to the Aldermen and that is why we put it in the budget?

Mr. Thomas stated the School Board did approve our recommendation, however, it was always contingent upon what they were going to receive for a final budget.

Alderman Wihby asked so the recommendation was from you then. It wasn't their recommendation? It was a recommendation that you thought would work and they agreed to it and then we funded it.

Mr. Thomas answered these recommendations were both in the Mayor's budget, with some modifications and recommended by the department as far as enhancements and the personnel. Again, all of these items received a favorable response from the School District, again, always subject to what they were going to receive for the budget. If you remember correctly this came to the Board and the Board approved it really before the School District got a final number.

Alderman Wihby asked wasn't this the same item that we talked about...there was some money set aside for landscaping and we said no this was more important.

Mr. Thomas answered that is correct. As I mentioned, the Mayor's budget had recommendations in their for enhancements and a pilot landscaping program and what we recommended to the Board is instead of spending the money on enhanced landscaping, let's reallocate it into some of these additional positions for painters and plumbers for the school. However, the bottom-line both in the Mayor's budget for the Building Maintenance Division and the Board's budget was always subject to a bottom line number for school chargebacks.

Alderman Wihby asked wasn't this going to save money. Wasn't the intention of this to get work done in-house because we were sub-contracting it out and this was going to save us some money?

Mr. Thomas answered it was our recommendation to bring on these personnel so that we could provide some painting and additional maintenance in the buildings and yes by doing more in-house there would have been less demand to do outside contracting. Again, these are

chargebacks to the school and the School District has the final say on what they will accept as a bottom line for chargeback.

Mayor Baines stated I have some clarification on this because this was a subject both at the last two Board meetings when the final budget recommendations were approved that the School District...the Superintendent made some decisions especially in terms of hiring additional special education personnel because of what was happening in special education, however, the Superintendent at both meetings assured the Board that he would continue to monitor the situation and once his expenses became known as the school year opened to sit down with Mr. Thomas and revisit this issue. Secondly, the School Board voted last night and it was a split vote to request that the Board increase its budget an additional \$300,000. That is what is happening on the school side. The Superintendent, however, has continued to say that once he has better clarity on his obligations as school opens with new enrollments, special transfers, special education, ESL, etc. he is willing to sit down with you and revisit this issue.

Alderman O'Neil stated I guess I am very disappointed, your Honor. We were never told...I am not convinced...they could have got their request and they would still cut this. They are actually putting \$300,000 or more to work for them, correct?

Mr. Thomas stated if you turn to the last sheet in the table it kind of summarizes what the Board approved, which was in the first column and the second column notes the chargebacks that the School District would have to accept for that total budget. That total budget did include the new positions that we were talking about – the painters, building technician, plumber and enhancements to ServiceMaster and the last column shows the bottom line of \$4.5 million as what they budgeted for chargebacks. The Mayor is correct. The School District has continued to talk to us and kept the door open, however, why I wanted to bring this information to the Board is that during the whole budget process it was mentioned on numerous occasions that we should try to enter into some kind of contract or agreement and I am trying to bring this forward as an understanding that Public Works has, with the School District as far as what the chargeback number is as we speak tonight. Tonight as we speak the chargeback number that has been approved is that \$4.5 million number noted in the last column.

Alderman O'Neil stated we have been criticized in the past for not making a commitment to the facilities and I think this Board has taken great strides the last few years and this was another part of moving forward. I guess I am disappointed that they have decided not to go forward on this.

Alderman Vaillancourt stated at the risk of saying what somebody else has said but making sure that everybody says it, we were told at budget time that you were negotiating in good faith with them and we were ready to do this. We gave them even more money then they asked for in the Mayor's budget. This is the kind of reason that the School Board and the Board of Mayor and Aldermen don't get along because they don't do what they promised us they will do.

Alderman Lopez asked, Frank, the work that is being done with the landscaping at Beech Street School and Northwest, was that part of the budget.

Mr. Thomas answered not part of this budget, no.

Alderman Gatsas stated I think there was a long conversation about this and there was an awful lot of give and take. I think Frank Thomas was sitting there defending schools and saying that he was close to working a deal with them. I am looking back again now and saying if we can't sit in good faith then how do we, as a Board, in good faith sit here and wait for payments of \$1.8 million in good faith when if we don't get that \$600,000 on the books by the end of August, correct me if I am wrong Kevin but we are going to have to write it off as a bad debt. So, we are sitting there with \$600,000 in 18 days that we may have to write off. That is taxpayers money that is not going to be brought back and we in good faith have to believe that they are going to pay us. Your Honor, I just think that you look at the issues and certainly I think members on this Board kind of bent over backwards. I can tell you that the \$114 million and the \$115 million I was convinced to go to that because I wasn't prepared to go there because I wasn't sure that that is where we should be going. Again, I think it is an issue where we start looking at things and in good faith is what we all base everything on. Good faith of payment of \$600,000 in 18 days may be a write off to this City. I think that is a major problem.

Mayor Baines replied that will not happen.

Alderman Gatsas stated well I would have said back in June that somebody wouldn't have told us that we are taking \$300,000 and moving it somewhere else. Would anybody on this Board have believed that? Not when they were saying that they needed the money to maintain schools and fix them and clean them and paint them and everything else.

Mayor Baines replied well again the door has not been closed. I want to remind the Board that as of last night the Superintendent said once again once he has a handle on what is happening in the fall with the influx of students, etc. he is going to sit down with Frank again and revisit this issue.

Alderman Gatsas stated we have been sitting here waiting as a Board since last November on chargebacks because that was a problem. You know the debt service was where we were going to find huge amounts of money that the City charged the School Department incorrectly. They did 20 years of an audit and they came back and I believe it was what \$23,000 that was in error?

Mayor Baines replied I don't remember what the exact number was.

Alderman Gatsas stated so we are sitting here again saying to somebody you know you owe us \$600,000 and for me to sit here and believe that somebody is going to pay us in a timely manner when they haven't done so for two years, I don't think anybody on this Board should sit here and for one second think that they moved \$300,000 to another department. They are not doing it.

Alderman Hirschmann stated the chargebacks that we are discussing are revenues to the City and any time during the year that we find out that revenues are not going to come into the City, we can in fact reopen the budget or amend the budget. We can amend their number down.

Alderman Gatsas replied not that budget. It is a FY00 number.

Alderman Hirschmann responded it says FY02. We are talking about the FY02 budget.

Mr. Clougherty stated what Frank is talking about is the current budget. The chargeback that Alderman Gatsas is talking about is from last year.

Alderman Hirschmann asked are we still on Item 25. If those chargebacks aren't going to happen, those are revenues to us and anytime during the year that we realize we aren't going to get revenues we can reopen the budget and amend the number down.

Mayor Baines answered I think there is agreement on the chargebacks though. Am I correct on that, Frank?

Mr. Thomas replied we have agreement on the \$4.5 million, a verbal agreement. Again, this was informational to the Board so that everybody is on the right track as far as what the agreed chargeback is. The unfortunate part, as I mentioned earlier, is the number that they have agreed upon is less than what we would have liked to have seen to implement the enhancements in the new position. As the Mayor stated also, we are still under discussions but the number that has been agreed upon between Building Maintenance and the School District is that last column, \$4,515,814.

Mayor Baines responded again it is just informational right now. They are going to be coming before the Board and you will have an opportunity to discuss it further.

Alderman Wihby stated when we did the budget we were told that the schools were falling apart, there was no paint, the floors were awful...we put this plan in that they had agreed to because it was going to bring in new painters and it was going to fund a maintenance technician and a plumber to do corrective maintenance and save money and correct some of the problems that were there. Again, your Honor, it is a matter of priorities that the School Board and the School Superintendent just don't understand. Again, I refer to the article where they are hiring people, your Honor, for Human Resource jobs where stuff like this to try to correct problems that exist aren't being taken care of and there is something wrong, your Honor, when they start saying we are going to fund positions that we really don't need when we have people who can do it and all of the sudden we are going to give up on custodial work and polishing floors and taking care of plumbing problems because they are going to be the first ones in here saying the Aldermen didn't give us enough money.

Alderman Levasseur stated I have a quick question. The \$1 million that we gave them above and beyond the budget, of the projects that were listed that you recommended, did they accept all of those projects for that amount of money?

Mr. Thomas replied those projects are all in agreement. The SCIP cash projects that you are referring to.

Alderman Wihby responded that is not true. They didn't take all of the extra money and use it for what you told them you wanted it for.

Mr. Thomas replied well they are reserving some money out of that until we get further along in the year.

Alderman Wihby asked how much was that.

Mr. Thomas answered \$150,000.

On motion of Alderman Lopez, duly seconded by Alderman Pinard, it was voted to receive and file this item.

26. Communication from the Deputy Public Works Director requesting to increase the Revolving Loan amount from the NH Department of Environmental Services for the Landfill Closure Project from \$12,100,000 to \$14,105,000.

On motion of Alderman Hirschmann, duly seconded by Alderman Pinard, it was voted to approve the request.

27. Communication from the Deputy Public Works Director requesting the Board accept State Hazardous Waste Clean up funds, enter into a contract with the NH Department of Environmental Services, Waste Management Division for the Fall 2001 Household Hazardous Waste Collection project, and authorize the Mayor to execute such documents as may be required.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to accept the funds, enter into a contract and authorize the Mayor to execute such documents, subject to the review and approval of the City Solicitor.

28. Communication from the Information Services Director seeking Board approval to dispose of various pieces of equipment that are obsolete and no longer of value in a manner that is most cost-effective to the City either through receiving multiple quotes or sending out requests for bid.

Alderman Levasseur moved to approve the request. Alderman Pariseau duly seconded the motion.

Alderman Gatsas asked are there no schools that can use any of this equipment.

Ms. Prew answered in the past some of the equipment has gone to the schools and we have been trying to keep them apprised of what we have but for quite some time now they haven't been interested and haven't responded to the need and we need to move the equipment out. Some of it is in pretty bad shape.

Mayor Baines asked do you have any usable computers.

Ms. Prew answered well what we have aren't really complete systems. There are no monitors with them because the monitors we are using. They are CPU's. Some of these things go way back. You are talking some 386's, but certainly if the School Department...we would certainly continue to ask them and if they can make use of any of the equipment they certainly would get the first opportunity.

Alderman Gatsas asked is there any way that you could contact that school in Danville that had the vandalism occur. Maybe they would be willing to take some of it.

Ms. Prew answered we certainly could.

Alderman Gatsas stated that may be better than some of the things they have, which has all been destroyed.

Mayor Baines asked what about the parochial schools in Manchester.

Ms. Prew answered we haven't approached them.

Mayor Baines asked would that be appropriate to do or could that be done. If we are talking about Manchester at least if the public schools don't want it if we make an offer to the parochial schools to look at so we can keep it in Manchester and if not we can follow-up with Alderman Gatsas's suggestion.

Ms. Prew asked what about some of the other non-profits. Would that also be acceptable? We can send a list of some of the equipment that is a little more serviceable out.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

29. Communication from the Director of Parks, Recreation & Cemetery advising that in order to address recent problems at Crystal Lake it has become necessary to assign an off-duty police officer to that location and noting he may need to request funds for this purpose at a later date since it was not included in the FY02 budget.

Alderman Vaillancourt moved to receive and file.

Mayor Baines stated I did meet with both Mr. Ludwig and the Chief of Police to make sure that we were doing everything possible and they have assured me that this was a high priority issue that needed to be done and I asked them to put it in writing to the Board.

Alderman Vaillancourt stated I would like to say that beyond that on Sunday the Crystal Lake Association held its annual meeting and I attended that and there is some talk about the people who are using Crystal Lake being from outside of Manchester and even outside the state and perhaps before another summer comes and goes we should consider the issue that has been floated about trying to do permitting for Manchester people and collect money from out of City and out of state people.

Mayor Baines replied I discussed that with Mr. Ludwig at the meeting and asked him to put a proposal together for this Board to consider in the next budget cycle.

Alderman Shea stated my daughter who lives in a certain community in Connecticut has to pay \$150 to use the beach in another community so there is a precedent for that.

Alderman Wihby stated I know that we have had problems and the police have been down at Stark Park and Livingston and maybe it is time that we look at a Park Ranger or a couple of them who can go to the different parks and watch over them rather than hire police officers.

Mayor Baines replied that is something that we can certainly consider and discuss.

Alderman Shea stated we did have that years back when there were people in parks using different kinds of paraphernalia until they moved into crack houses. I know from personal experience because I lived right across the street from one and obviously I moved. They did have rangers walking around different parks.

Alderman Pinard stated I have Massabesic Lake in my area and believe me I go there every Sunday afternoon and evening and this summer people have been there from all over. I would like to go along with Alderman Vaillancourt's suggestion and maybe next year establish something. I think that we are losing site of Massabesic Lake. I did go on patrol last summer and we did see something that was not supposed to happen there.

On motion of Alderman Lopez, duly seconded by Alderman Vaillancourt, it was voted to receive and file this item.

30. Communication from Francis Murphy, Managing Director of the law firm of Hall, Hess, Stewart, Murphy & Brown, relative to afternoon concerts at Veteran's Memorial Park.

On motion of Alderman Pariseau, duly seconded by Alderman Shea, it was voted to refer this communication to staff including, but not limited to, the City Clerk, City Solicitor, Police and Parks & Recreation for report to the Committee on Administration.

TABLED ITEMS

31. Report of Committee on Accounts, Enrollment and Revenue Administration
Advising that it has accepted a School audited financial statements report from the Finance Department, as enclosed herein, and is submitting same to the Board for informational purposes.
(Tabled May 1, 2001)

This item remained on the table.

32. Report of Committee on Lands and Buildings
Recommending that the Mayor be authorized to execute a Release of Reversionary Rights, enclosed herein, for property now owned by The Way Home and known as 214 Spruce Street, Manchester, NH, subject to the review and approval of the City Solicitor.
(Tabled July 17, 2001)

On motion of Alderman Levasseur, duly seconded by Alderman O'Neil, it was voted to remove this item from the table.

Alderman Levasseur stated the language has been changed to my satisfaction and I think we should move on this.

On motion of Alderman Levasseur, duly seconded by Alderman Pinard, it was voted to accept, receive and adopt the report.

33. Communication from the Economic Development Director seeking approval to expend \$75,000 of its funds to have the City Highway Department construct a temporary surface parking lot with 151 parking spaces on the vacant lot at the corner of Bridge and Elm Streets and further requests authorization to have parking revenues from this lot, less funds for the reasonable management expenses of the Traffic Department, returned to MDC in repayment of its \$75,000 investment.
(Tabled July 17, 2001)

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to remove this item from the table.

Mayor Baines stated I thought we were just going to wait on that.

Mr. Thomas replied we are prepared to do it if authorized to do it. The project got tabled to determine how that hotel project was going to move forward.

Mayor Baines asked is your recommendation to put it back on the table.

Mr. Thomas answered that would be mine.

Alderman Shea stated well maybe Bill Jabjiniak knows a little more about it. How long will it be before we get some sort of definitive action? A couple of months? How long should we wait as a Board because winter is coming and obviously paving is going to shut down and so forth.

Mr. Jabjiniak replied there is some discussion with the developers and they are due to respond to us by the end of this month. There is some direction needed between the hotel developers and the parking developers to see if they can go forward together and the writing of an RFP is fairly a lengthy process so there is a chance it will not get done this year. I would look to report back after the response comes in at the end of the month and we can certainly update the Board later on.

Alderman Shea responded so you are saying we should wait until the September meeting or the second meeting in September.

Mr. Jabjiniak replied I would look to wait and leave it on the table.

Alderman Shea stated I don't mind leaving it on the table. I just want a progress report so to speak.

Alderman Thibault stated Alderman Sysyn and I sit on the MDC Board and at the meeting last Friday it was voted that we hold off a little bit before we get this paved because something may happen quicker than we would like and we just hate to spend the money to pave it and then find out in two months that we shouldn't have done it. We are waiting based on hearing from them.

On motion of Alderman Wihby, duly seconded by Alderman Shea, it was voted to place the item back on the table.

34. Communication from the Selectmen of Ward 9 regarding the relocation of the Ward 9 polls from Blessed Sacrament Church Hall to the Bishop O'Neil Youth Center. (Tabled July 17, 2001)

On motion of Alderman Pariseau, duly seconded by Alderman O'Neil, it was voted to remove this item from the table.

Alderman Pariseau moved to relocate the Ward 9 polling place to the Bishop O'Neil Youth Center. Alderman Lopez duly seconded the motion.

Alderman Hirschmann stated I was campaigning in that area and the place is under construction.

Alderman Pariseau replied I am under the impression by Mr. Dunfey that it will be completed by Election Day.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

NEW BUSINESS

A report of the Special Committee on the Civic Center was presented advising that it has accepted the recommendation of Peter Levy to have an independent structural firm review the issue of the cracked pier at the Manchester Civic Center (Verizon Wireless Arena) since the State Department of Engineers have indicated they will not be doing so.

On motion of Alderman O'Neil, duly seconded by Alderman Pariseau, it was voted to accept, receive and adopt the report.

A report of the Special Committee on the Civic Center was presented advising that it has accepted the Civic Center Parking Committee Report, as enclosed, and recommends same be referred to the appropriate committees.

The Clerk notes that parking and signage issues shall be referred to the Committee on Traffic/Public Safety, and Exhibit C relative to licensing shall be referred to the Committee on Administration/Information Systems unless otherwise ordered by the Board.

Alderman Levasseur stated I know this is going to the Committee and I can go there and discuss this but it has been beaten around the bush quite a bit and I am very unhappy as a Ward 3 Alderman with the way that has been set-up. I think it has been very detrimental to businesses downtown by having to have the meters filled until 10 PM and I hope you will take that into consideration when this gets to the Committee. I have already been on record for voting against that, your Honor.

Alderman O'Neil asked will this come back to the Board after the Committee has reviewed it so if I have a particular concern I don't need to tie us up tonight.

Mayor Baines answered yes. You will be heard.

On motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to accept, receive and adopt the report.

A report of the Committee on Traffic/Public Safety, respectfully recommending after due and careful consideration that a request from the Latinos Unidos de New Hampshire for a Hispanic Festival to be held at Veteran's Park, including a parade on August 18, 2001 from 10 AM until 11 AM beginning at the Hartnett Parking Lot and traveling west on Concord Street to Elm Street and southerly on Elm Street to Veteran's Park, be granted and approved subject to the supervision and approval of the City Clerk, Police, Fire, Parks & Recreation Department.

On motion of Alderman Pariseau, duly seconded by Alderman Lopez, it was voted to accept, receive and adopt the report.

Alderman Wihby stated earlier today Alderman Gatsas talked about an article in the *Union Leader* referring to the concerts and the Singer family. I didn't see the article but I would hope that this Board could send a letter apologizing for the comments even though we didn't say them and we send a message to them that we are not in agreement with what was said.

Alderman Pariseau duly seconded the motion.

Mayor Baines called for a vote. There being none opposed, the motion carried.

Alderman Shea stated, Kevin, by way of updating the Board my understanding is that under the reserve fund we have, we have about \$3.5 million and we should be up to about \$5 million or \$5.2 million under the reserve fund that we have. Could you clarify that? I know I was talking to the financial wizard on the Board, Alderman Gatsas, and I would like you to educate us.

Mr. Clougherty replied there is a current reserve of about \$8 million. It is not up to what it should be in terms of the percentages that the credit markets would like but it has not been a detriment to our rating so far. With the performance that we have seen so far, provided that the School District makes their payment to the City, we believe that we would be able to add to the fund balance as part of the closing for last year's books.

Alderman Shea asked so our balance right now is how much.

Mr. Clougherty answered I think it is about \$8 million.

Alderman Shea asked and how much should we have.

Mr. Clougherty answered they would like to see us probably closer to \$10 million.

Alderman Vaillancourt stated I believe earlier in the meeting we decided that we were going to have Chief Driscoll come forward.

Mayor Baines replied we are advising that that not take place this evening under the advice of legal counsel.

Alderman Vaillancourt asked legal counsel has advised us that the Chief not come forward.

Solicitor Clark answered my advice is the same as before that the Chief not get into specific applications that are presently pending.

Mayor Baines stated we would ask the Board to support that at this point in time.

Alderman O'Neil stated I don't know if this is new business because this is a continuation from last week but where are we going with this revaluation. I am convinced, your Honor, just in a week that the way I voted last week was proper. What I am concerned about is that I understand people can still go in even though we extended it to August 24 but they actually won't get notification from the firm until September and they are going to be long gone. Is it my understanding then that it all falls on the back of the Assessors at that point?

Mayor Baines replied that is correct.

Alderman O'Neil asked is that what we are willing to accept or are we going to hold the firm accountable for some of their...

Mayor Baines interjected we have another meeting coming up in September to discuss this.

Alderman O'Neil replied but they are gone.

Mayor Baines responded I understand that but we haven't paid the bill in full yet either.

Alderman Lopez stated I think Tom Arnold met with the Assessor's today to answer a lot of questions including the bonding, which is \$1.3 that is going to expire on August 31. I think they are addressing that particular issue if Mr. Arnold would like to inform the Board I would appreciate it.

Mayor Baines stated just as a point of information, I had to move my daughter on Monday from Keene and I turned on the talk radio in Keene as I got into town and they were discussing their assessments and the company was the same company. It was interesting to me that I heard the moderator explaining the process and again I have never been through an assessment or revaluation and I hope I never go through another one in this capacity but they announced that part of the process was that every land owner in Keene got from CLT the information that they had gathered as they visited their homes. They confirmed facts about number of rooms, square footage, number of bathrooms and part of their process was before the bills went out an

opportunity for the landowner to respond to the accuracy of the information. I was struck by that and saying we did not have that as part of our process. I plan to have that discussion with the Assessors.

Alderman O'Neil asked is that what we are going to accept or is there a plan and I don't see any of the Assessors here but...

Mayor Baines asked Deputy Solicitor Arnold to come forward.

Deputy Solicitor Arnold stated my knowledge is somewhat limited. I did meet briefly with the Assessors this afternoon relative to the issue of the performance bond. The present performance bond expires on the 31st of this month, however, coincidentally the revaluation company did write to the Assessors and in view of the fact that they had agreed to extend the hearings until I believe August 24 they asked that the final date on the contract be extended from August 31 until September 28 if my memory serves me correctly. I know that Steve Tellier did speak to the company and indicate that if the Board was going to accept that extension that the performance bond should be extended until at least September 28. I don't know whether the revaluation company has responded to that request yet.

Alderman Lopez stated I would like to request that the City Solicitor stay on top of this so that we don't get to August 31 and that is the end of it. We don't want to let anybody off the hook and the City Assessor should make sure that the contract is complied with.

Alderman Levasseur stated a revaluation that is bad on its face should not be accepted. I made a motion not to accept the numbers or the revaluation and nobody seconded it. As we go about this town I have already seen that Alderman Lopez has written a letter and I have talked to Alderman Pinard who says that he might have made a mistake on accepting the delay. I think as we go about walking around the City we are seeing that there is such an aberration in the numbers that I will be bringing that motion in again on September 4 because to delay a revaluation that is bad on its face is accepting a bad revaluation. Your Honor, I really think that the job that they did has been atrocious at best. I have been getting phone calls from all over the City from different people not in my ward who are just telling me that they cannot believe what is going on with this revaluation and I think that after the *Union Leader* publishes this stuff in the paper on Friday and Saturday that it is going to be even worse. I think the phone calls are going to come even more fast and furious. I am just letting you guys know that on September 4 I will bring in that motion again.

Alderman Wihby stated what you spoke of earlier, I had a lot of phone calls where people said they charged me for a porch and for this and that and I don't even have that in my house. It is almost like these people didn't even look at the properties. I think that there is a flaw in those numbers and that at least if we don't get rid of the whole thing we should be delaying it a year and giving the opportunity to have the assessed value looked at again and have the Assessor's

work on it and get this bond going and working out something, your Honor, that is fair to everybody. That is not rushing the process through. Again, we are rushing the process because we want our cash flow in December and I hope in September...I was hoping that it would be at today's meeting that we could get this thing over with but at least in September I hope the Board will reconsider and delay this because it is totally wrong. Your Honor, there were some properties that I looked into that I know because the City looked at buying property where we were looking to pay \$4 million and it was assessed at \$137,000. Now obviously it is a mistake but every time I bring it to the attention of the Assessors they say yes it is a mistake and we are going to look at it and review it and it just keeps getting deeper and deeper. This thing should just be ended right now and stopped.

Mayor Baines stated also as a side note we have been looking at some commercial property that has gone down by 44%, some very substantial commercial property and we don't understand why they could possibly drop like this. On the other hand have property owners get assessments that are just way out of whack with what is deemed reasonable.

Alderman O'Neil stated that was actually one of the points. I am hearing that commercial properties across the City are going down and I have a concern. We need to find out about that. Thank God there is a process that even after this firm leaves town there is a process for the people and that is an abatement process with the Assessors and there are even two more steps after that if they are not satisfied. I heard a story that Alderman Wihby just mentioned about a guy and they doubled his assessment and they said well what about your finished garage and he said I park two cars in there every night and they said well what about your patio and porch and he said I have no patio and porch. He is convinced that they never looked at his house. Anything we can do to make this better I support.

Alderman Gatsas stated I believe that everybody on this Board received a letter that I sent to Commissioner Arnold and his department has been overseeing this entire revaluation. He has agreed to come in and talk to us at the next meeting and I think we should wait until that meeting and hear what he has to say before we start jumping to conclusions.

Mayor Baines replied I think it is fair for us to point out the inconsistencies.

Alderman Gatsas responded I don't question the inconsistencies. They are huge. When they have made a bad one they have made a real bad one.

Alderman Vaillancourt stated I concur with Alderman Gatsas. What is not fair, your Honor, and what verges on irresponsible is for this Board instead of being the Board that calms the waters and assures all of the citizens of Manchester that things are going to be all right for this Board to incense public opinion. Alderman O'Neil just said that the commercial values have gone down across the City. Well then how can it be that we have gone from 40% to 42% as we were told last week by these commercial values? Of course mistakes were made. I was told that a similar

amount of mistakes were made 10 years ago. This is not a perfect process. This Board should not be inflaming passions, but it should try to soothe passions. After my offer last week to run through anybody's numbers with a calculator next to the phone I got a few calls and I tried to soothe some passions there. I make the offer again. Anybody in my ward who wants to go through this, I will run through the numbers with you and then I will tell you how to take care of it. We should be acting as the people to cool passions, not to stir them up. I think when the Revenue Commissioner, Stan Arnold, is here on September 4 that may tend to do that and we may find that our legal options are not that many.

Mayor Baines responded that is fair but if that advice is good on this issue it might be good on some others as well.

Alderman Lopez stated I also agree with Alderman Gatsas but I want to clarify since Alderman Levasseur used my name in the questions that I had posed to the City Assessors. I have faith and trust in the City Assessors to solve this problem and I think as we learned here tonight on one other issue, we should let the process work. I think that is the most important thing. We have three qualified City Assessors and they are officers of this City and they are charged to be responsible to take care of this issue and let us use them to our fullest authority.

Alderman Shea stated first of all I want to compliment the colleague to my left for his questions. I read through them and I know he spent a lot of time on them and I think he should be complimented. The second point is that the City Assessors in my particular case with constituents from my ward have been over and above the call of duty. They have been excellent. All three have worked very hard to resolve difficulties and many of the people who had concerns have been taken care of. I think that they ought to be complimented because they are working really hard. I don't know if they can work 24 hours a day, 7 days a week but they have worked very well.

Alderman Pinard stated when we look at contracts, was the contractor's background checked.

Solicitor Clark replied yes. In this particular case the Board of Assessor's would have drafted a request for professional services and pre-qualified contractors and checked the backgrounds.

There being no further business, on motion of Alderman Pariseau, duly seconded by Alderman Thibault, it was voted to adjourn.

A True Record. Attest.

City Clerk